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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

Plaintiff,

Criminal Action
No. 19-10063-DJC

V.

July 13, 2022
8:48 a.m.

RANDALL CRATER,

Defendant.

TRANSCRIPT OF JURY TRIAL DAY 2
BEFORE THE HONORABLE DENISE J. CASPER

UNITED STATES DISTRICT COURT
JOHN J. MOAKLEY U.S. COURTHOUSE
1 COURTHOUSE WAY
BOSTON, MA 02210

DEBRA M. JOYCE, RMR, CRR, FCRR
Official Court Reporter
John J. Moakley U.S. Courthouse
1 Courthouse Way, Room 5204
Boston, MA 02210
joycedebra@gmail.com

1 APPEARANCES:

2 FOR THE GOVERNMENT:

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P R O C E E D I N G S

(The following proceedings were held in open court before the Honorable Denise J. Casper, United States District Judge, United States District Court, District of Massachusetts, at the John J. Moakley United States Courthouse, 1 Courthouse Way, Boston, Massachusetts, on July 13, 2022.

The defendant, Randall Crater, is present with counsel. The Assistant U.S. Attorneys are present.)

THE COURT: Good morning.

08:48 THE CLERK: Court is in session. Please be seated.

THE COURT: Good morning, counsel.

We're still waiting on a number of our jurors. I obviously wanted to get started.

Counsel, since yesterday, I've received Docket 164, a stipulation between the parties regarding Exhibit 6.

Mr. Markham, does this negate the need for disputed L?

MR. MARKHAM: Yes, your Honor.

THE COURT: Okay.

08:49 Counsel, I also received Docket 165, the government's supplemental memo on the Touhy regulations. I've had a chance to review that, which refreshed my recollection and also read some of the key cases.

Mr. Lopez, do you need to be heard on this?

MR. LOPEZ: Your Honor, I'd like an opportunity to provide you with the alternative law on the issue.

1 I'll have something to you at the close of business
2 today.

3 THE COURT: Okay. And I guess my question to you, is
4 this still a live issue and which witnesses does this refer to,
5 apply to?

6 MR. LOPEZ: I think there's two different types of
7 witnesses. One is the CFTC, which is not part of the
8 Department of Justice, and the other is the FBI.

9 THE COURT: Okay.

08:50 10 MR. LOPEZ: And the U.S. Postal Service, which isn't
11 part of the Department of Justice, to my knowledge.

12 THE COURT: But, I guess, counsel -- so I'm happy to
13 have you file something and I'll take up at the end of the day
14 when --

15 MR. LOPEZ: What I expect to present is the caselaw
16 that says that Touhy was a civil matter, an administrative
17 matter, and before someone can testify in a civil case certain
18 steps have to be taken.

19 In a criminal case, where someone has -- can present
08:50 20 their defense, they don't have to disclose --

21 THE COURT: So I guess, counsel, a few things I would
22 just ask you to address. There's caselaw before me, U.S. v.
23 Soriano-Jarquín, 492 F.3d 495, 504 (1st Cir. 2007), which
24 stands for the proposition that Touhy regulations apply to the
25 testimony of agency employees in federal criminal prosecutions.

1 So that's one.

2 Two is I think, as I understand it, federal agencies
3 may have different regulations about how Touhy can be complied
4 with, but I don't think this is limited to the FBI; and three,
5 I'd just like to know which witnesses this applies to in terms
6 of the witnesses you anticipate proceeding with since at least
7 the caselaw that I've reviewed suggests that Touhy needs to be
8 complied with even in criminal cases.

9 MR. LOPEZ: That's fine, your Honor.

08:51 10 THE COURT: Thank you.

11 MR. MARKHAM: Your Honor, if I could make just one
12 note on this point.

13 THE COURT: Sure.

14 MR. MARKHAM: That the government's also going to be
15 objecting on the CFTC witness, if that's called, on relevance
16 grounds. I know it's at the end of that sort of abbreviated
17 bench memo. It's not just about the regulatory issue, if you
18 comply with it. It's also about relevance.

19 THE COURT: So, counsel, I was more focused on Touhy
08:52 20 since there's a procedure that needs to be complied with, but I
21 understand that there is another basis.

22 Counsel, I believe -- obviously we'll start with my
23 preliminary instructions and then openings.

24 Is the government's lineup the same as presented
25 yesterday?

1 MR. MARKHAM: Yes, your Honor. The first witness will
2 be John Lynch.

3 It will be helpful, but obviously the defense won't be
4 held to it, to know approximately how long the cross-
5 examination is going to be, because if we're done at 1:00, we
6 might not get through more than one witness. We'd like to know
7 who else we need to have lined up.

8 Of course it depends on what he says on direct, we
9 understand.

08:53 10 THE COURT: Sure.

11 Counsel, why don't we see how things are going and by
12 the 11:00 break I'll ask for that.

13 MR. MARKHAM: Thank you, your Honor.

14 THE COURT: Counsel, anything else from the
15 government's point of view?

16 MR. MARKHAM: Your Honor, there was a question
17 yesterday about Zoom witnesses.

18 THE COURT: Yeah, and I wasn't sure if there's overlap
19 between Zoom and Touhy.

08:53 20 MR. LOPEZ: No, there's not.

21 THE COURT: Okay.

22 MR. LOPEZ: But those witnesses won't be reached until
23 next week. The government I think is reaching out to them to I
24 guess affirm the representations I made about their inability
25 to travel.

1 THE COURT: Sure. So does the government have a
2 position on that yet?

3 MR. MARKHAM: So as a general matter, your Honor, the
4 government wants to be able to cross-examine witnesses in
5 person in order to test their credibility and their memory. We
6 understand the government doesn't have the confrontation right,
7 the same confrontation right as the defendant, that the Court
8 will make that decision. As an initial matter we'd like to
9 address them in person.

08:54 10 We are, though, in the process of trying to reach out
11 to them and talk to them and just confirm what their level of
12 immobility is, because if they're truly immobile, I'll try not
13 to be --

14 THE COURT: So I'll review with counsel to see what
15 the government's position is once you gather more information.
16 Anything else from the government's side at this
17 point?

18 MR. MARKHAM: No, your Honor. Thank you.

19 THE COURT: Mr. Lopez?

08:54 20 MR. LOPEZ: No, your Honor. I need to run back
21 downstairs. I left my backpack downstairs.

22 THE COURT: I will have you do that.

23 Just one other matter that I wanted to take up, but
24 hold on one second.

25 (Discussion off the record.)

1 THE COURT: Counsel, can I just speak with you on
2 Whisper Tech for a moment?

3 (Discussion at sidebar on the record.)

4 THE COURT: Mr. Markham.

5 MR. MARKHAM: Yes, your Honor.

6 THE COURT: Mr. Lopez.

7 Mr. Lopez, can you hear me?

8 MR. LOPEZ: I can't hear you.

9 THE COURT: Can you hear me now?

08:55 10 MR. LOPEZ: (Nodded.)

11 THE COURT: Okay. I just wanted to make you aware of
12 two juror issues. One, juror --

13 MR. MARKHAM: I apologize, your Honor. I'm having a
14 hard time hearing you. I can only barely hear you.

15 THE COURT: How about now?

16 MR. MARKHAM: Much better, your Honor.

17 THE COURT: Two juror issues. The first is in regards
18 to Juror No. 11, Ms. Stocker. She just raised with the CSO
19 that she has anxiety. Ms. Hourihan had a conversation with her
08:56 20 to take it a day at a time, so I'm just telling counsel this,
21 just FYI.

22 Does either counsel need to be heard on that issue?
23 Mr. Markham?

24 MR. MARKHAM: No, your Honor.

25 THE COURT: Mr. Lopez?

1 MR. LOPEZ: No, your Honor.

2 THE COURT: Juror No. 3, Ms. Warsing, raised with
3 Ms. Hourihan that she remembered last night that her
4 83-year-old uncle used to be a police officer.

5 MR. MARKHAM: I apologize, your Honor. I can't hear
6 you.

7 THE COURT: Can you hear me now?

8 Can you hear me now?

9 MR. MARKHAM: Yes, your Honor.

08:56 10 THE COURT: Ms. Warsing raised with Ms. Hourihan that
11 she remembered last night that her 83-year-old uncle used to be
12 a police officer.

13 Counsel, do you need to be heard on this issue?

14 MR. MARKHAM: Not from the government, your Honor.

15 MR. LOPEZ: No, your Honor. I took that into
16 consideration.

17 THE COURT: Okay. That is just FYI. Okay.

18 (End of discussion at sidebar.)

19 THE COURT: We can come off of Whisper Tech.

08:57 20 It is my practice, as you might imagine, to limit
21 sidebars if we can at all avoid it, and we will do sidebars
22 using Whisper Tech but I do try to avoid it.

23 If an issue comes up, an objection comes up that we've
24 previously discussed, you can certainly reference our previous
25 discussions. There may be some instances where if I think I

1 need to hear you and I think we can push through -- have you
2 push through through other topics so I can talk to you at a
3 break, I'll try to do that as well.

4 Ms. Hourihan --

5 (Discussion off the record.)

6 THE COURT: I think -- counsel, I think we're still
7 waiting on jurors. I think it's always important, especially
8 on the first day, to start as close to 9:00 as we can, but
9 obviously they all need to be here.

08:58 10 Anything else I should take up or obviously I'll let
11 Mr. Lopez get back downstairs.

12 MR. MARKHAM: No, your Honor, nothing from the
13 government.

14 THE COURT: We can stand in recess. But once you've
15 done that, Mr. Lopez, if everyone can stay close by because I
16 do want to start as soon as they're all here.

17 MR. LOPEZ: Thank you, your Honor.

18 THE COURT: Thank you.

19 THE CLERK: All rise.

08:58 20 (Recess taken.)

21 THE CLERK: All rise.

22 THE COURT: Everyone can be seated. We have all of
23 our jurors. I know we're waiting for Mr. Lopez, so we won't
24 have them come in until he's back.

25 (Pause.)

1 (Discussion off the record.)

2 THE CLERK: All rise for the jury.

3 (Jury entered the courtroom.)

4 THE CLERK: Court is in session. Please be seated.

5 THE COURT: Good morning, jurors.

6 THE JURY: Good morning.

7 THE COURT: Seeing you all assembled, we'll get
8 started right away.

9 As I mentioned yesterday, I'm going to begin with some
09:06 10 preliminary jury instructions and then we'll move into openings
11 and then the government will begin to present its evidence to
12 you.

13 Jurors, I want to take a little time to talk to you
14 about your duties as jurors and give you some brief preliminary
15 instructions on the law that you are to follow.

16 At the end of the trial, I'll give you more complete
17 and more detailed instructions on the law.

18 The reason I give you some instructions now is to give
19 you some framework for considering the evidence you're about to
09:07 20 begin to hear. I do not want you to think that these
21 preliminary instructions are the only ones that matter or that
22 they're somehow more important than the ones that come at the
23 end of the trial. You must apply the instructions I give you
24 at the end of the trial as a whole.

25 It is your duty, jurors, to decide from the evidence

1 what the facts are. You, and you alone, are the judges of the
2 facts. You will hear the evidence, decide what the facts are,
3 and then apply the law that I give to you to those facts. In
4 doing so, you must follow the law as I explain it to you
5 whether you agree with it or not. You must decide this case on
6 the evidence before you and the law as I give it to you.

7 Sometimes jurors are curious about what I think,
8 whether I think, for example, a particular witness is
9 believable or how I think the case should come out. My
09:08 10 opinion, if I have one, and I certainly don't have one at this
11 point, is not relevant. It is your role, not mine, to decide
12 these issues. You should not interpret anything I may say or
13 do during the course of the trial as indicating what I think
14 about a witness or what I think your verdict should be.

15 As I've said now a number of times to you yesterday,
16 this is a criminal case. The defendant, Mr. Crater, has been
17 charged by the government with violations of federal law. The
18 charges against Mr. Crater are contained in a document called
19 an indictment. The indictment is simply a description of the
09:08 20 charges against him. It is not evidence of anything.

21 Mr. Crater has pleaded not guilty to the charges in this case.

22 A defendant is presumed innocent. The government must
23 prove his guilt beyond a reasonable doubt. The defendant does
24 not have to prove his innocence. He does not have to put on
25 any evidence. He does not have to testify. Those rights are

1 guaranteed by the United States Constitution.

2 At the end of the trial, you'll be asked to render a
3 verdict of guilty or not guilty. Your verdict must be
4 unanimous; that is, you may convict the defendant only if every
5 one of you on the deliberating jury agrees that he is guilty
6 beyond a reasonable doubt.

7 Now, as I've indicated yesterday, Mr. Crater has been
8 charged with eight federal crimes, four counts of wire fraud,
9 which are Counts One through Four; three counts of unlawful
09:09 10 monetary transactions, Counts Five through Seven; and one count
11 of operating an unlicensed money transmitting business, Count
12 Eight.

13 To find the defendant, Mr. Crater, guilty on any
14 particular charge, the government must prove each element of
15 the charged offense beyond a reasonable doubt. The Court will
16 now turn to the elements of each of these offenses.

17 As to each of the wire fraud charges, again, Counts
18 One through Four, the government must prove beyond a reasonable
19 doubt that there was a scheme to defraud or scheme to obtain
09:10 20 money or property through false or fraudulent pretenses, the
21 scheme to defraud involved the misrepresentation or concealment
22 of a material fact, or the scheme to obtain money or property
23 involved a false statement, assertion, half-truth or knowing
24 concealment of a material fact; that Mr. Crater knowingly and
25 willfully participated in this scheme with the intent to

1 defraud; and that Mr. Crater caused or should have reasonably
2 foreseen an interstate wire communication to be used for the
3 purpose of executing the scheme or otherwise in furtherance of
4 the scheme.

5 As to each of the unlawful monetary transaction
6 charges, again, Counts Five through Seven, the government must
7 show beyond a reasonable doubt that Mr. Crater deposited,
8 withdrew or exchanged funds over \$10,000 in a financial
9 institution affecting interstate commerce; that he knew the
09:11 10 money came from some kind of criminal offense; the money was
11 criminally derived from the wire fraud; and the wire fraud took
12 place in the United States.

13 As to the unlicensed money transmitting business
14 charge, again, Count Eight, the government must show beyond a
15 reasonable doubt that Mr. Crater conducted, controlled,
16 managed, supervised, directed or owned all or part of an
17 unlicensed money transmitting business and that Mr. Crater did
18 so knowingly.

19 Again, jurors, this is only a very preliminary
09:11 20 outline. At the end of the trial, I'll give you final
21 instructions on these matters, including definitions of
22 important terms. Those instructions will govern your
23 deliberations.

24 Now, you've heard me refer to the term "evidence" a
25 number of times. I expect that the evidence in this case will

1 include the testimony of witnesses, documents and other items
2 received as exhibits, and any facts on which the parties have
3 agreed or stipulated.

4 There are rules that control what you may consider as
5 evidence. When a lawyer asks a question or offers something as
6 evidence and the lawyer on the other side thinks it's not
7 permitted under the rules of evidence, that lawyer may object.
8 This simply means that the lawyer is requesting that I make a
9 decision about the application of a particular rule.

09:12 10 It may be on occasion necessary for me to discuss the
11 issue with the lawyers outside of your hearing, either by
12 having a conference on the Whisper Tech that you saw us use or
13 by calling a recess. Please know that counsel and I will do
14 all that we can to keep these conferences to a minimum. That's
15 one of the reasons that we meet early before you arrive and
16 also the reason we confer after you leave every day.

17 The purpose of these conferences is usually so I can
18 make a decision on the rules of evidence. We're not trying to
19 keep things from you just to frustrate you. It's just
09:13 20 sometimes important that we discuss these issue outside of your
21 earshot.

22 Jurors, certain things are not evidence.

23 Statements and arguments by the lawyers are not
24 evidence. The lawyers are not witnesses. Questions by lawyers
25 standing alone are not evidence. Again, the lawyers are not

1 witnesses. The question and the witness' answer taken together
2 are evidence.

3 Objections are not evidence. Lawyers have a duty to
4 their respective clients to object when they believe something
5 is improper under the rules of evidence. If I sustain an
6 objection, in other words, if I agree with the attorney
7 objecting, you must ignore the question or exhibit and must not
8 try to guess what the answer might have been or what the
9 exhibit might have shown.

09:13 10 Anything I tell you to disregard is not evidence and
11 must not be considered by you.

12 Anything you see or hear outside of this courtroom is
13 not evidence. You must decide this case based on what is
14 presented in evidence here in open court.

15 Sometimes a particular piece of evidence may be
16 received for a limited purpose only; that is, it can be
17 considered by you only for a particular purpose and not for any
18 other purpose. I'll tell you when that occurs and instruct you
19 on the purposes for which that particular item can or cannot be
09:14 20 considered.

21 In deciding what the facts are, jurors, you may have
22 to decide what testimony you believe and what testimony you do
23 not believe. You may believe everything a witness says or only
24 part of it or none of it. It is entirely up to you. I'll give
25 you some suggestions at the end of the trial for you to

1 consider in assessing the credibility of all of the witnesses.

2 I'm now going to return to the rules and guidelines I
3 read to you before we took our recess for the day yesterday,
4 and, again, I want to reiterate these because these are all
5 important.

6 First of all, don't talk among yourselves about this
7 case or about anyone or anything involved with it until the end
8 of the case when you go to the jury room after all of the
9 evidence to decide your verdict.

09:15 10 You should feel free obviously to get to know each
11 other and talk, but on any topic but this case.

12 Second, don't make up your mind about what the verdict
13 should be until after you have gone to the jury room to decide
14 the case and you and the other jurors have discussed all of the
15 evidence. Keep an open mind until then.

16 Third, don't talk to anyone else about this case or
17 about anyone who has anything to do with it, again, until the
18 end of the case and when I've discharged you as jurors. Anyone
19 else, as I said yesterday, includes family members, co-workers,
09:16 20 your friends, anyone. You may tell people that you've been
21 impaneled on a jury, but don't tell them anything about the
22 case until you've been discharged.

23 Do not mention or discuss this case in any electronic
24 form, as I said yesterday.

25 Don't let anyone talk to you about this case or about

1 anyone or anything who has anything to do with it. If someone
2 should try to talk to you, again, please let Ms. Hourihan know
3 or one of the court security officers so it can be brought to
4 my attention.

5 During the trial, don't speak with any of the parties,
6 the attorneys or the witnesses. It's important not only that
7 you do justice but you avoid the appearance of partiality. If
8 someone saw you talking to someone else, they might question
9 your ability to be fair and impartial, so just don't do that.

09:16 10 Don't read any news reports or articles or listen or
11 watch anything related to this case. Again, as I said
12 yesterday, don't do any outside research. That includes not
13 doing any Google searches or internet searches or conduct any
14 research of any kind regarding the subject matter of this case,
15 the charges, the parties or the law.

16 Finally, as I mentioned yesterday, if during the
17 course of the trial you can't hear, you can't see a witness,
18 please let us know and we'll try to remedy the situation.

19 As I noted before, we always take a break around
09:17 20 11:00. There will be snacks upstairs for you, you'll be able
21 to take bathroom breaks then, but if there's another occasion
22 when that's necessary, let us know.

23 Please keep all of these rules in mind. They're very
24 important to this process.

25 As I see, you all have notebooks and pens. You

1 certainly may take notes if you choose to do so during the
2 course of this trial. If you haven't done so yet, you should
3 put your juror seat number on the front of the notebook. That
4 will be your notebook for the duration of this trial.

5 Obviously, it's your choice whether or not you take
6 notes. I want to give you a few things to consider in making
7 that decision. First and foremost, you're not required to take
8 any notes and you may choose not to do so. It's a personal
9 preference and choice. If you do decide to take notes, do not
09:18 10 allow your note-taking to distract you from listening carefully
11 to the testimony that's being presented to you. It's important
12 that you observe and listen to the witnesses. If you'd prefer
13 not to take any notes at all and just simply to listen, please
14 feel free to do that.

15 Please also remember that not everything you write
16 down is necessarily what was said. Thus, when you return to
17 the jury room at the end of this case to begin your
18 deliberations, do not assume simply because something appears
19 in somebody's notes that it necessarily took place in court.
09:19 20 Notes are an aid to recollection, nothing more. The fact that
21 it's written down doesn't mean that it's necessarily accurate.
22 It's your collective memory as the jury of the evidence that
23 governs during your deliberations.

24 During your recesses, just leave your notebooks on
25 your chair. You can't take your notebooks home or upstairs

1 until the end when you begin your deliberations.

2 Ms. Hourihan will collect the notebooks at the end of
3 each day and return them to your seats before you return in the
4 morning. No one will look at your notes. That, again, will be
5 your notebook for the duration of this trial.

6 When this case is over, your notes will be destroyed.

7 All of these steps are in line with my earlier
8 instruction that it's important that you not discuss this case
9 with anyone or permit anyone to discuss it with you.

09:19 10 As you may have noticed at this point, we have a court
11 reporter, Ms. Joyce, who's creating a record of everything that
12 is said during the course of this trial. Sometimes jurors
13 think that they'll be able to get a transcript of the trial for
14 the purposes of their deliberations at the end of the case.
15 Please know that is not true. You will not be given a
16 transcript.

17 Since you will not have a transcript, you should
18 listen very carefully to the testimony and take whatever notes
19 you think may be necessary to help you remember the testimony.

09:20 20 Just to give you the sequence of what's going to
21 happen, as I said, the next step is that you'll hear opening
22 statements from the attorneys on either side. The government
23 in its opening statement will tell you about the evidence it
24 intends to put before you so you will have an idea of what the
25 government's case is going to be. The opening statement is not

1 evidence. Its purpose is only to help you understand what the
2 evidence will be and what the government will try to prove.

3 After the government's opening statement, Mr. Crater's
4 attorney may, if he chooses to, make an opening statement as
5 well. The defendant's opening statement is no more evidence
6 than the government's opening statement. At this point in the
7 trial, no evidence has been offered.

8 Next the government will offer evidence that it says
9 will support the charges against the defendant, Mr. Crater.

09:21 10 The government's evidence in this case, as I said, will be the
11 testimony of witnesses, documents, and other exhibits and any
12 stipulations.

13 After the government's evidence, the defendant's
14 attorney may present evidence on the defendant's behalf, but he
15 is not required to do so. I remind you that the defendant is
16 presumed innocent and the government must prove his guilt
17 beyond a reasonable doubt. The defendant does not have to
18 prove his innocence and need not put on any evidence.

19 After you've heard all of the evidence, the government
09:21 20 and the defense will each be given an opportunity to present
21 closing arguments. As I said, opening statements weren't
22 evidence, that's also true with closing arguments. Those are
23 also not evidence.

24 In their closings, the lawyers for the parties will
25 attempt to summarize and help you understand the evidence that

1 was presented.

2 The final part of the trial occurs when I instruct you
3 about the rules of law that you are to apply in reaching your
4 verdict. After hearing my instructions, you'll leave the
5 courtroom together to begin your deliberations and make your
6 decision. Your deliberations will be secret among you.

7 As I indicated, our normal trial day is 9:00 to 4:00,
8 although, as I told you yesterday, today will just be 9:00 to
9 1:00. We will take a break at 11:00 today, and on those days
09:22 10 we go to 4:00, we'll take a lunch break usually from 1:00 to
11 2:00.

12 Once you get this case for your deliberations, the
13 trial day will be 9:00 to 5:00. I obviously will keep you
14 updated on when I think you'll get this case for your
15 deliberations.

16 And again, jurors, keep in mind we've done a fair
17 amount in collaboration with the attorneys from both sides to
18 make sure that things work efficiently. There may be occasions
19 when I need to speak with the attorneys outside of your
09:23 20 hearing, and I'll certainly keep you informed about the
21 schedule as we move along.

22 With all of that said, we're now going to move to
23 opening statements, and the government, who bears the burden of
24 proof, will go first.

25 Mr. Markham.

1 MR. MARKHAM: Thank you, your Honor.

2 THE COURT: Let me just advise the jurors in the back
3 row, every other seat there's a little case between you. If
4 you open that up, there's screens in there. Why don't you pull
5 those out. These will be used to display the presentation I
6 think each attorney is going to make during their openings and
7 then also for the documents that will be presented during
8 evidence.

9 Can everyone see a screen?

09:24 10 It looks like it.

11 Counsel.

12 MR. MARKHAM: Between 2014 and 2017, the defendant,
13 his name is Randall Crater, and he's sitting right there, he
14 told lies about his business in order to get money.

15 You will hear that the defendant's business was called
16 My Big Coin. And the defendant told the world that My Big Coin
17 was selling a cryptocurrency. He claimed that that
18 cryptocurrency was backed by \$300 million in gold. And he
19 claimed that My Big Coin had partnerships with well-known
09:25 20 companies like MasterCard.

21 Based on those claims, the defendant received millions
22 of dollars from investors and from customers. What those
23 investors and the customers did not know was the truth. There
24 was no My Big Coin cryptocurrency. There was no \$300 million
25 in gold. And there was no business partnership with

1 MasterCard.

2 People lost their money based on claims that the
3 defendant made and that he knew were not true. That's a crime.
4 It's called fraud, and it's why we're here.

5 Good morning. My name is Chris Markham, and as you've
6 heard, I'm a federal prosecutor here in Massachusetts.

7 Sitting at counsel table with me is my colleague, Siji
8 Moore, he's also a federal prosecutor, as well as two
9 paralegals assigned to the case, Mr. Barbosa and

09:26 10 Ms. Badalament.

11 Together we represent the United States, and our job
12 is to demonstrate to you, the jury, that the defendant did what
13 he's charged with: Lying to investors and customers in order
14 to pocket millions of dollars.

15 As I just mentioned, the defendant's business, My Big
16 Coin, claimed to be selling something called a cryptocurrency.
17 And during this trial, you are going to hear a lot about
18 cryptocurrency, which is a relatively new form of money that
19 exists only on the internet.

09:27 20 Some of you are probably familiar with cryptocurrency
21 and others are not. So for those who are not familiar with
22 cryptocurrency, I'll set the stage a little bit.

23 So when it comes to money, most of us use this, the
24 U.S. dollar, and we buy things with it every day. Dollars are
25 a form of physical currency that are created and backed by the

1 U.S. government. And just like the U.S. dollar, other
2 countries have their own physical government-backed currency as
3 well. And for as long as we've all been alive, these
4 government-backed physical currencies have been the primary way
5 that people buy things.

6 Then in the 1990s, with the rise of the internet,
7 people started to create something called virtual currency.
8 Virtual currencies were not created or backed by any government
9 and they were not physically available. They were only
09:28 10 available online. In those early days, most virtual currencies
11 didn't have any value because people didn't trust them and
12 people didn't want to use them. But then, around 2009, a new
13 form of virtual currency started to become popular. It was
14 called cryptocurrency. Now, like other virtual currencies from
15 back in the 1990s, cryptocurrency was only available online and
16 was not created or backed by any government. But unlike those
17 previous virtual currencies, cryptocurrency became incredibly
18 valuable. The reason cryptocurrency became so valuable was
19 that it had key characteristics that those previous virtual
09:28 20 currencies did not have.

21 For example, cryptocurrency allows for transactions
22 between parties to be secured with something called
23 cryptography. Now, cryptography is a series of very complex
24 mathematical equations, and that's where that name "crypto" in
25 cryptocurrency comes from, that word "cryptography." So when

1 people transfer cryptocurrency from one person to another,
2 those very complex mathematical equations make sure that
3 transaction is secure. It can't be hacked.

4 Another key characteristic of cryptocurrency that made
5 it very different from those earlier virtual currencies was
6 that transactions were traceable through something called a
7 blockchain. Now, a blockchain is a record stored online of
8 every transaction made using that cryptocurrency. So it's like
9 having a public ledger where you can trace the ownership of the
09:29 10 cryptocurrency from the first person who ever had it all the
11 way to the person who currently owns it, and you can see every
12 transaction in between.

13 So it was with these two innovations, transactions
14 secured through cryptography and transactions traceable through
15 the blockchain, that cryptocurrency became incredibly valuable.
16 People began to have confidence in it and use it more.

17 Now, back in 2010, the most well-known cryptocurrency
18 was something called Bitcoin, and I imagine many of you have
19 heard of it by now.

09:30 20 In 2010, if you wanted to buy a single Bitcoin, it
21 would have cost you less than a penny. But by 2011, one
22 Bitcoin cost more than a dollar. By 2012, more than \$10. And
23 by 2013, a single Bitcoin cost more than \$100. So what does
24 that mean? If you bought \$1 in Bitcoin in 2010, by 2013 you'd
25 have over \$10,000. The gains were incredible, and it was in

1 this context that Randall Crater entered the picture.

2 In 2013, as all this money was being invested in
3 Bitcoin and people were making great fortunes, the defendant
4 started marketing his own currency. He called it My Big Coin.
5 And as you will hear, the defendant told the world that My Big
6 Coin would be the next big cryptocurrency. And he brought in
7 other people to help him aggressively advertise it.

8 My Big Coin had a website, it had a Twitter account,
9 it had a Facebook page, and they even released a YouTube video.

09:31 10 In all these ways the defendant and the people he paid told
11 investors and customers a whole series of falsehoods.

12 The defendant claimed that My Big Coin was selling a
13 cryptocurrency and that it could be used to transfer money to
14 anyone anywhere in seconds. He claimed that its value was safe
15 because it was backed by gold. And he claimed that My Big Coin
16 had a partnership with MasterCard so that you could use your My
17 Big Coin MasterCard to go buy things in the real world with
18 your My Big Coin currency.

19 And the defendant also operated what he called the My
09:32 20 Big Coin Exchange, and he told people they could buy and sell
21 their My Big Coin cryptocurrency on that exchange.

22 You will see all the different ways the defendant was
23 spreading these falsehoods. He talked to investors and
24 customers in person, on the phone, in text messages and in
25 emails.

1 For example, you will see this email. It's from the
2 defendant and it's to a man named John Lynch. You're going to
3 hear from him later this morning. And he not only invested a
4 lot of his own money, but he told other people to invest as
5 well.

6 And the defendant tells John Lynch, We have \$300
7 million in gold backing us.

8 You will also see the defendant promoting My Big Coin
9 on his own social media pages.

09:33 10 For example, this is the defendant's LinkedIn page.
11 And he describes himself as the creator and developer of My Big
12 Coin. He provides links to the My Big Coin website, its
13 Twitter page and its Facebook page, and he announces, We are
14 the only cryptocurrency to be backed by gold, exclamation
15 point. We are partners with MasterCard.

16 You will also see the defendant repeating these same
17 messages on his Twitter page. Like here, where he posts an
18 advertisement for the My Big Coin Exchange. And the defendant
19 claimed that My Big Coin is the first cryptocurrency to be
09:33 20 backed by gold, partners with MasterCard, and that you could
21 transfer money in seconds anywhere in the world.

22 All of those false claims about My Big Coin on the
23 website, over social media, through the emails, the texts and
24 the phone calls, you will hear that they tricked a lot of
25 people into sending the defendant their money.

1 Between 2014 and 2016, the defendant received millions
2 of dollars from My Big Coin. Now, some of that money came from
3 investors who wanted to own a piece of the My Big Coin company,
4 and others, other money came from customers who wanted to own
5 the My Big Coin currency so they could buy things with it or
6 watch its value rise.

7 And you will see the bank records showing that all
8 that money from the investors and the customers, it went to the
9 defendant, either to bank accounts in his name or sent to bank
09:34 10 accounts of his family members, like his mother, his sister,
11 and his wife.

12 But in the end, the customers who bought My Big Coin
13 currency, they couldn't buy anything with it, and the investors
14 couldn't get their money back.

15 The defendant had already spent most of that
16 investment money on personal items, like cars and jewelry. And
17 the gold backing that was going to make all this secure was a
18 hoax.

19 As you will hear, My Big Coin did not have \$300
09:35 20 million in gold, and it never did. That's why the investors
21 didn't get their money back. My Big Coin also did not have a
22 business partnership with MasterCard, and it did never, and
23 that's why none of the My Big Coin customers could ever buy
24 anything with their My Big Coin currency.

25 And for all those years the defendant was making these

1 claims, My Big Coin was not even a real cryptocurrency. There
2 was no cryptography securing the transactions. There was no
3 blockchain that was tracing the transactions. And there was no
4 way to transfer money in seconds anywhere in the world,
5 quote-unquote, as the defendant claimed.

6 In reality, My Big Coin was just another virtual
7 currency, like those ones from back in the 1990s, and it was
8 basically worthless.

9 So around 2017, the federal government began
09:36 10 investigating My Big Coin for fraud, and you will see that at
11 that point the defendant starts scrambling to cover his tracks.
12 You will hear that it was only then for the first time, in June
13 of 2017, nearly four years after the defendant started telling
14 people he already had a cryptocurrency, that some version of
15 the My Big Coin cryptocurrency was actually created. Despite
16 the fact that he said he was trading nearly four years earlier,
17 it didn't exist until 2017.

18 And you will learn that for all those years the
19 defendant was selling something that he didn't really have,
09:36 20 none of the My Big Coin money was ever reported to the IRS,
21 over \$6 million. And while My Big Coin claimed to be offered a
22 legitimate virtual currency exchange, he never registered the
23 exchange with the U.S. Treasury Department, which was a legal
24 requirement. And that leads us here to the defendant's trial.

25 So how is the government going to prove all this to

1 you?

2 Well, first, you will hear from several people who
3 invested money in My Big Coin or who bought its currency
4 because they thought it was a cryptocurrency backed by gold and
5 partnered with MasterCard. And you will see various records
6 like bank statements, the defendant's emails, and all of that
7 social media. And these records will show that the defendant
8 created and operated both My Big Coin and the My Big Coin
9 Exchange. And that the defendant brought in other people to
09:37 10 help him run that company. You'll see emails with some early
11 business partners, and you'll see emails with people the
12 defendant paid to promote My Big Coin.

13 But as the evidence will make clear, this is not a
14 case about an aspiring business start-up that just didn't quite
15 make it. And this is not a case about prosecuting a legitimate
16 cryptocurrency company. This is a case about fraud.

17 You will see that the defendant told people he was
18 selling a cryptocurrency, but then you will hear from a
19 cryptocurrency expert who did an investigation of the My Big
09:38 20 Coin currency, and she will tell you that from 2014 through
21 2016, the My Big Coin cryptocurrency didn't even exist.

22 The defendant also told people that My Big Coin had
23 that partnership with MasterCard. So you can use that
24 MasterCard to go buy things in the real world. But then you're
25 going to hear from a representative from MasterCard who will

1 tell you MasterCard never had a partnership with My Big Coin.
2 That didn't exist either.

3 And the defendant told people that he had \$300 million
4 in gold that would make their investment safe. He even claimed
5 that \$100 million of that gold was in his name in a bank in
6 Spain. But, once again, you will see through the bank records
7 and the emails that all of that was made up. While the
8 defendant had some early conversations with business partners
9 about gold backing, he never actually confirmed it existed
09:39 10 before he started making all those gold claims.

11 And then, when the gold backing never came through, he
12 never told his investors that. He just kept taking their
13 money, and you will see him working to cover his tracks.

14 By 2017, when investors starting pushing to get their
15 money back, the defendant came up with all new lies. He
16 claimed that money was on its way, but it was just taking a
17 long time because the money was coming from Europe. He then
18 claimed that he was at an undisclosed location in Colorado
19 counting cash and waiting for an armored car service.

09:40 20 And then he claimed that My Big Coin was now working
21 with the NFL, the National Football League. All of that was
22 made up.

23 And as for the My Big Coin Exchange, you will see U.S.
24 Treasury Department records showing that he never even
25 registered it, which he was required to do.

1 And you will hear from a witness from the treasury
2 department who will tell you why these registration
3 requirements exist. It's to combat crimes, like fraud and
4 unlawful monetary transactions, the exact crimes the defendant
5 is charged with.

6 So now let's discuss those charges.

7 First, in Counts One through Four, as the Judge just
8 instructed you, the defendant is charged with wire fraud.
9 That's simply a form of fraud that uses interstate wires, like
09:40 10 a wire transfer from a bank or an email. And as you'll see,
11 that's what happened here. There was a fraud, the defendant
12 used emails to get false statements out, and he used wire
13 transfers to get money.

14 Next, in Counts Five through Seven, the defendant is
15 charged with unlawful monetary transactions. The law prohibits
16 transfers of more than \$10,000 obtained from criminal activity,
17 like fraud.

18 And in this case, the evidence will show that on
19 multiple occasions the defendant transferred way more than
09:41 20 \$10,000 that he obtained through his fraud scheme that was My
21 Big Coin.

22 And lastly, Count Eight, the defendant is charged with
23 operating an unlicensed money transmitting business. And the
24 evidence will show that the defendant violated this law by
25 operating the My Big Coin currency exchange without ever

1 registering it with the U.S. Treasury Department, as he's
2 required to do.

3 Those are the charges, and very soon you'll begin to
4 hear the evidence.

5 The government is going to ask you to focus on the
6 defendant's words and the defendant's actions, the lies and
7 half-truths that he told and caused other people to tell, all
8 the money he got from those falsehoods, and his failure to
9 comply with the reporting and registration requirements of the
09:42 10 federal government.

11 And after you've heard all of that evidence, the
12 government will come back to you and ask you to return the only
13 verdict that is consistent with both the evidence you've seen
14 and the law as the Judge will instruct you, that the defendant
15 is guilty of the crimes charged beyond a reasonable doubt.

16 Thank you.

17 THE COURT: Thank you.

18 Mr. Lopez.

19 MR. LOPEZ: Thank you, your Honor.

09:43 20 (Discussion off the record.)

21 MR. LOPEZ: If everything that the government just
22 said was true, we wouldn't be here.

23 Ladies and gentlemen of the jury, it's my honor to
24 stand beside Randall Crater at this important time in his life.

25 Randall, will you please stand.

1 Randall Crater is 51 years old. He's been married to
2 Erica Crater for 19 years. He has had two young men, ages 14
3 and 17, and one young woman, age 15.

4 Randall did not graduate from high school, but he did
5 obtain his GED. He did not go to college, and yet, he started
6 a successful software company called Greyshore Technologies
7 that has created software for the gaming and gambling
8 industries.

9 Randall is an idea guy. He thinks up new ideas or new
09:44 10 applications of old ideas and then works very hard to bring
11 them to fruition. He's an entrepreneur, he's a businessman,
12 and he's a deal maker.

13 Now, the Court has already told you that Randall is
14 presumed innocent and doesn't have to present any evidence in
15 this case. He has no burden of proof. The burden of proof
16 never shifts from the government to him.

17 And the government has told you what it hopes to prove
18 in this case. However, the government's opening is not
19 evidence. The government's opening is merely the government's
09:44 20 theory of the case. And if the government doesn't prove the
21 facts that it hopes to prove, the presumption of innocence
22 requires you to find Randall not guilty. That is the oath you
23 took freely and voluntarily.

24 Now, ladies and gentlemen of the jury, you are going
25 to be the finders of fact in this case. You and only you get

1 to decide what the facts are. That's your solemn
2 responsibility, and it's an awesome responsibility. It is why
3 Randall Crater has a constitutional right to a jury trial. So
4 it's very important that you keep an open mind until you've
5 heard all the evidence and before you decide what the facts
6 are, before you decide what the truth is in this case.

7 Ladies and gentlemen, simply put, this case is about
8 Randall Crater working very hard to start a new business, a
9 cryptocurrency business.

09:45 10 The evidence will show that starting a new business is
11 not a crime, asking others to participate in a new business
12 venture is not a crime, asking others to invest in a new
13 business venture is not a crime. New businesses are started in
14 this country every day. Indeed, few things are more American
15 than starting a new business.

16 The evidence will also show that trying to start a new
17 business comes with risks. Asking others to participate in a
18 new start-up business with no track record comes with risks.

19 Now, the evidence will show, if the witnesses are
09:46 20 truthful, that they knew these risks and they assumed these
21 risks in the hopes that they would have a handsome return on
22 their investment, in the hope that they would make money in
23 this new business.

24 The evidence will show that Randall's motive was not
25 to make money for himself, but to make money for others, and he

1 worked very hard to make this goal a reality.

2 The evidence will show that the witnesses you will
3 hear from knew they were investing in a new business and they
4 knew they could lose their money. And the evidence will show
5 that they took that risk with full knowledge. They took that
6 risk because they wanted to make money.

7 Now, the evidence will show that witnesses you hear
8 from participated in Bitcoin in one of three ways. They either
9 purchased My Big Coin coins or they purchased stock in My Big
09:47 10 Coin or they did both.

11 Now, initially the witnesses purchased only My Big
12 Coin coins, but eventually a decision was made to take the
13 company public, and at that point some of the witnesses were
14 given the opportunity to purchase stock in the company that was
15 going to be part of the IPO, or in this case, an ICO, an
16 initial coin offering.

17 Now, to find Mr. Crater guilty beyond a reasonable
18 doubt of wire fraud, number one, you have to find that there
19 was in fact a scheme to defraud; two, that the scheme was to
09:47 20 obtain money or property by means of false statements,
21 half-truths or the knowing concealment of material facts; and
22 three, that Mr. Crater knowingly and willfully participated in
23 the scheme with the specific intent to defraud others.

24 Now, the government must prove these facts beyond a
25 reasonable doubt.

1 Now, during the course of this trial, you're going to
2 hear the statements that the government has cherry-picked and
3 selected to allege that they were false or made with
4 half-truths and that people purchased coin as a result.

5 And some of these statements was that Big Coin was a
6 functioning cryptocurrency, that it could be traded in exchange
7 for other currencies, that it could be exchanged for goods and
8 services, and that the value was actually based on the trading
9 of coins.

09:48 10 According to the government, these statements were
11 allegedly false when made. But notice that each one of these
12 facts as a statement or half-truth are positive facts.

13 For example, the coins were backed by gold is a
14 positive fact. I point this out because to prove that the fact
15 was untrue when made, maybe not later on, but when made, the
16 government must prove a negative fact, that the coins were not
17 backed by gold. The government must also prove that Randall
18 Crater knew at the time the statement was made that it wasn't
19 backed by gold. And finally, the government must prove both of
09:49 20 these facts, that there was no gold and that Randall knew it
21 beyond a reasonable doubt. Otherwise, the presumption of
22 innocence requires you to find him not guilty.

23 And the same analysis applies to all the other
24 positive facts the government has alleged.

25 Now, as you listen to the evidence in this case, pay

1 close attention to when Randall Crater made the statement and
2 what type of statement it was. Was it a statement of fact or
3 was it a forward-looking statement?

4 Now, a forward-looking statement, the evidence will
5 show, is a statement that says, in essence, this is what we
6 plan to do, as opposed to this is what now exists.

7 The evidence will show that many of the statements
8 made when My Big Coin was started were actually forward-looking
9 statements that had not yet come to fruition, and the people
09:50 10 that bought coins knew it.

11 Now, the reason I want you to pay close attention to
12 when the statement was made and what kind of statement was made
13 is because the government must prove that the statement was
14 material to the listener's decision to purchase coins or stock.
15 This is important because telling someone that we are planning
16 to do something is not the same as telling someone this is what
17 we have.

18 As you listen to the evidence, I want you to also pay
19 particular attention to Randall Crater's good faith belief.
09:50 20 This is very important because the Court has told you that you
21 must presume that Randall Crater is innocent unless and until
22 the government proves beyond a reasonable doubt that he's not.
23 So Randall Crater's good faith belief about My Big Coin is at
24 the heart of this case.

25 The government will attempt to prove that My Big Coin

1 was a scheme to defraud by having its witnesses say they would
2 not have purchased coin if they knew this or they knew that.
3 But the evidence will show that My Big Coin was a start-up
4 company that was intended to make people who purchased coins or
5 shares in the company a substantial profit. The plan was to
6 make money.

7 More importantly, the evidence will show that the
8 early purchasers of coin were interested in one thing and one
9 thing only: Buying coins at a low price in the hopes that they
09:51 10 would later sell coins at a higher price, and, thus, a
11 substantial profit.

12 The government raises the point of Bitcoin. Well,
13 Bitcoin not so long ago was at \$20,000 -- strike that --
14 \$40,000 a coin and then it precipitously fell to \$20,000 a coin
15 in a day. So cryptocurrencies are risky. Everyone knew that.

16 The evidence will show that reasonable people knew
17 that buying a virtual currency was extremely risky from the
18 outset, and that fact -- and the fact that that risky bet did
19 not pan out is not a crime.

09:52 20 Now, to understand what happened in this case, I'm
21 going to ask you to metaphorically join me in my time machine
22 and take you back to 2013.

23 In 2013, Bitcoin, which was the first cryptocurrency,
24 was only four years old. There are more than a thousand
25 cryptocurrencies today. In this case, you'll learn what a

1 cryptocurrency is. The evidence will show that a
2 cryptocurrency is a peer-to-peer digital currency system. It
3 is based on a decentralized network called a blockchain.

4 The decentralized nature of the network makes
5 cryptocurrency transactions free of the fees and regulations
6 placed on transactions by traditional institutions such as
7 banks and credit cards. The evidence will show that
8 cryptocurrency transactions can't be traced or understood by
9 anyone besides the parties involved, the transaction
09:53 10 information can't be altered in any way, and the sender and
11 receiver can easily confirm the transaction between one
12 another.

13 That is why, the evidence will show, that
14 cryptocurrencies have also been described as a trustless
15 system. The parties in each transaction do not have to trust
16 each other because the transaction or the addition to the
17 blockchain can't be altered in any way once it's added to the
18 blockchain.

19 Now, the evidence will show that cryptocurrencies have
09:53 20 no inherent value. Inherent value is that value integral to
21 something's being. Inherent value doesn't change and cannot be
22 taken away.

23 Cryptocurrencies do not have value simply because they
24 exist. However, the evidence will show that cryptocurrencies
25 can have intrinsic value. Intrinsic value is the measure of

1 what an asset is worth. In the case of Bitcoin's coins, the
2 intrinsic value of the coins was determined by the trading
3 market price for the coins, just like the value of a house is
4 determined by what a willing buyer is willing to pay for it.
5 What a willing buyer would be willing to pay for coins and what
6 a seller would be willing to sell, to sell his coins is what
7 the market is.

8 Now, to understand what happened in this case, you
9 also have to keep in mind the state of the medical and
09:54 10 recreational marijuana industries in 2013.

11 The evidence will show that during the late 1990s and
12 early 2000s, up to about 2012, many states in the United States
13 decriminalized marijuana and legalized medical marijuana.
14 Beginning in 2012, states started to legalize recreational
15 marijuana. However, because the United States government has
16 not decriminalized marijuana, the medical or recreational use
17 of marijuana is still illegal under federal law.

18 So in 2013, banks would not provide financing for new
19 marijuana businesses, and in some cases not even allow these
09:55 20 businesses to utilize traditional banking services such as bank
21 accounts or checking accounts because they were afraid that
22 they would be charged with money laundering.

23 That's still the case today, by the way.

24 Now, turning to this case with that background, the
25 evidence will show that in December 2013, Randall Crater was

1 approached by an individual by the name of John Roche with the
2 idea of starting a new cryptocurrency business. Randall
3 immediately recognized the potential that a cryptocurrency
4 could have in the medical and recreational marijuana industry.
5 A cryptocurrency could solve the banking challenges in the
6 medical and recreational marijuana industries by allowing
7 buyers and sellers to purchase and sell marijuana
8 confidentially with cryptocurrency. Better yet, the buyers and
9 sellers didn't even have to trust each other. The new idea
09:56 10 resulted in the launch of a start-up called My Big Coin.

11 Now, the evidence will show that from the beginning,
12 the idea was to distinguish My Big Coin from other
13 cryptocurrencies and in particular Bitcoin.

14 Since a cryptocurrency has no inherent value, the gold
15 idea, which the evidence will show was not Randall's idea, was
16 to have the market value of My Big Coins backed by a commodity
17 like gold, just like the dollar used to be backed by gold in
18 Fort Knox using the gold standard, that was kind of the idea.

19 Because the plan was to use the coins in the medical
09:57 20 and recreational marijuana industries, the plan was to make the
21 coins liquid so that the owners could use their coins to
22 purchase goods and services. The liquidity idea was to use a
23 loadable credit card that a seller of coins could load with the
24 profits from the sale of his or her coins to a willing buyer,
25 and then the profits could be used to purchase goods and

1 services. And with respect to the medical and recreational
2 marijuana businesses, the plan was to replace traditional
3 banking services with My Big Coin coins.

4 The plan, the evidence will show, was to make My Big
5 Coin transactions fully transparent and trustless by using
6 blockchain technology.

7 Finally, once My Big Coin was a fully functioning
8 public cryptocurrency, the plan was to take the company public
9 in an initial coin offering, which, like an initial public
09:58 10 offering, would allow the public to buy shares in the company
11 and hopefully, hopefully result in substantial profits to the
12 early owners of the coins and the My Big Coin shareholders.

13 Now, the evidence will show that this was the plan.
14 But, like any start-up, the evidence will show that when My Big
15 Coin launched in 2014, although the plan was in place, time was
16 needed to implement the plan. And like many start-ups, My Big
17 Coin had its ups and downs. However, the evidence will show
18 that the early purchasers of coin and early purchasers of stock
19 were aware of these risks and purchased coin anyway.

09:58 20 Ultimately, the evidence will show that the plan did
21 not come to fruition for reasons entirely out of Randall
22 Crater's control, and the government has alluded to it, the
23 government's interference with this new start-up.

24 However, failing to launch a successful start-up,
25 particularly in the volatile world of cryptocurrency, the

1 evidence will show is not a crime.

2 So as you listen to the evidence in this case, I'm
3 asking you to think about Randall Crater's state of mind. Ask
4 yourselves: Did he have a good state of mind? Was he acting
5 in good faith? Was he really trying to make himself and others
6 rich? Or did he have a specific intent to defraud others?

7 When you listen to the statements, you may ask
8 yourself did he believe them to be true at the time he made
9 them or did he know they were false when made?

09:59 10 And by the way, Randall Crater doesn't have to prove
11 his good faith. Randall Crater has no burden of proof in this
12 case. He doesn't have to prove he's innocent. It's the
13 government's burden, and the burden never shifts to Mr. Crater,
14 to prove beyond a reasonable doubt that he acted with the
15 specific intent to defraud purchasers of coin.

16 Now, the government in its opening told you a lot
17 about Randall Crater's spending habits, but the evidence will
18 show that Randall Crater earned the money by selling his coin
19 to willing buyers.

10:00 20 Randall Crater did not make anyone buy his coins, he
21 didn't twist anybody's arm.

22 The evidence will show that Randall Crater actually
23 had a license with My Big Coin to provide the blockchain
24 technology to the company, and in payment for those services,
25 he received coins and shares from My Big Coin.

1 So he was hired by My Big Coin to provide the
2 technology.

3 Now, you may be asking but he didn't go to college.
4 But he hired someone who was a -- who was proficient in
5 building blockchain technology, and you're going to hear about
6 that.

7 Now, the evidence will show that Randall Crater sold
8 his coins to various individuals, some of the witnesses you'll
9 hear from in this case.

10:00 10 The evidence will show that those transactions were
11 arms-length transactions, and that they were at a price that
12 the buyer was willing to pay at that point in time.

13 Now, the evidence will show that there was one
14 witness, a lawyer by the name of John Lynch, that was the
15 largest purchaser of My Big Coins from Randall Crater. The
16 evidence will show that Attorney Lynch bought coins for himself
17 and others, his family, his friends, his staff, and he
18 solicited his business partners and others to purchase coin.

19 The evidence will show that Attorney Lynch also
10:01 20 purchased an interest an in four marijuana licenses in which
21 Randall Crater held an interest, as well as an interest in a
22 marijuana business named Trokie.

23 The evidence will show that Attorney Lynch was and is
24 a sophisticated investor.

25 The evidence will show that in 2017, Attorney Lynch

1 decided he did not want to be involved in the marijuana
2 business any longer, shortly after he was contacted by the
3 government authorities in this case, and he requested that his
4 \$3.7 million investment be repaid to him by Randall Crater in
5 coins.

6 The evidence will show that Randall Crater
7 accommodated Attorney Lynch's request and reimbursed his entire
8 marijuana investment in My Big Coins.

9 THE COURT: Two minutes, Mr. Lopez.

10:02 10 MR. LOPEZ: The evidence will also show that Randall
11 Crater also reimbursed other purchasers of coin when they
12 requested to be bought out.

13 Now, as you listen to the evidence in this case, you
14 must bear in mind there are actually two sides to every story.
15 Because the government has brought this case, they get to call
16 who they want first and ask questions, and I don't get to ask
17 questions until later. It's called the process of cross-
18 examination.

19 I ask you to wait with every witness until after I've
10:02 20 cross-examined them before forming any impressions about their
21 credibility, because you're going to find that much of what the
22 witnesses tell you actually supports Randall Crater.

23 So as with every witness -- as with every witness,
24 just as if the witnesses were salespeople who knocked on your
25 door, you must ask yourself: Is the person credible or does he

1 have something to gain?

2 Now, you're also going to hear from witnesses who work
3 for the U.S. government, the FBI, the IRS, the U.S. Treasury,
4 the U.S. Postal Service. They're all employees of the United
5 States government, which is also prosecuting Randall Crater.

6 Some of the witnesses you will hear from have a clear
7 financial incentive to testify in a certain manner.

8 Now, with respect to the money laundering charges, the
9 evidence will not show that Randall Crater knew that the money
10:03 10 he received in exchange for his coins was criminally derived.
11 Rather, the evidence will show that the money came from a
12 series of legal arms-length transactions.

13 With respect to the unlicensed money transmitting
14 business, the evidence will show that My Big Coin did not
15 provide any money transmission services. The evidence will not
16 show that My Big Coin was transferring funds from one location
17 to another, like Venmo or Apple Pay or Google Pay or Western
18 Union. The evidence will show that My Big Coin did not touch
19 any money or currency, real or virtual.

10:04 20 Now, during the course of this trial, you're going to
21 hear that Randall Crater wasn't perfect. You're going to learn
22 that he didn't file tax returns for a number of years. Keep in
23 mind he has not been charged with a tax crime here, and the
24 government's only going to show that he didn't file taxes.
25 They can't show that he owed taxes because they don't know how

1 much he actually expended on My Big Coin.

2 Now, during the course of the trial you'll also find
3 out that he bought a number of big-ticket items. There's
4 nothing illegal about buying stuff with money you've lawfully
5 earned.

6 At the conclusion of this trial, I'm going to ask you
7 to do what no one else has done for Randall Crater. I'm going
8 to ask you to save him from the government in this case. I'm
9 going to ask you to apply the rights guaranteed to him by our
10:04 10 Constitution to protect him. I'm going to ask you to see the
11 other side of the story here. And if you do, you're going to,
12 ladies and gentlemen, you're going to find him not guilty.

13 The truth in this case is much more complicated than
14 the simple summary that the government has put before you.
15 Listen to all the facts and decide what actually the truth is,
16 and I know at the end of this case you're going to do justice
17 by finding Randall Crater not guilty.

18 Thank you.

19 THE COURT: Thank you.

10:05 20 Counsel, you can move the podium.

21 Counsel, you can call your first witness.

22 MR. MOORE: At this time, your Honor, the United
23 States would like to call John Lynch.

24 THE COURT: He may be called.

25 JOHN LYNCH, having been duly sworn by the Clerk, was

1 examined and testified as follows:

2 THE CLERK: Thank you. Please be seated.

3 THE COURT: Good morning, sir.

4 THE WITNESS: Good morning, your Honor.

5 THE COURT: Sir, you can pull the microphone toward
6 you, the base moves.

7 THE WITNESS: Thank you.

8 Mr. Moore.

9 DIRECT EXAMINATION

10 BY MR. MOORE:

11 Q. Good morning. Please state your name for the record.

12 A. John Lynch, L-y-n-c-h.

13 THE COURT: Thank you.

14 BY MR. MOORE:

15 Q. And where did you grow up?

16 A. In Boston, Dorchester.

17 Q. And can you please describe to the jury your level of
18 education.

19 A. I graduated high school, college, and law school all in
10:07 20 Boston area schools.

21 Q. And where are you employed?

22 A. I'm employed at my own law firm and have been for decades.

23 Q. And where is your law firm located?

24 A. In Downtown Boston.

25 Q. Where do you live now?

1 A. In Brookline, just outside of Boston, not far from Fenway
2 Park.

3 Q. And did you live in the Boston area from 2014 to 2017?

4 A. Yes, during that entire time.

5 Q. Are you familiar with My Big Coin, sometimes known as MBC?

6 A. Yes.

7 Q. Who introduced you to My Big Coin?

8 A. In the first instance, a man named Michael Kruger, who was
9 affiliated with My Big Coin.

10:07 10 Q. Did Mr. Kruger explain to you what My Big Coin was?

11 MR. LOPEZ: Objection.

12 THE COURT: I'm sorry, objection?

13 Okay. Hearsay? Okay.

14 Counsel, you can rephrase. Sustained.

15 BY MR. MOORE:

16 Q. Do you have an understanding of what My Big Coin is?

17 A. Yes.

18 Q. Can you describe that to the jury?

19 A. My Big Coin is a so-called cryptocurrency, it's a digital
10:08 20 currency. Instead of reaching into your wallet and pulling out
21 dollar bills or something like that, this is an alternative
22 currency that exists in cyberspace. It is meant to have value
23 and meant to be used and exchanged for purchases or whatever
24 use regular currency could be put to.

25 Q. Who is the designer of My Big Coin?

1 A. Randall Crater.

2 Q. And is Randall Crater here in the courtroom?

3 A. Oh, yes, right here. I'm pointing to him. He's next to
4 counsel.

5 Q. Were you ever introduced to Randall Crater?

6 A. Well, I never met him in person until five years after I
7 became acquainted with MBC. Prior of that time our
8 communications were over the telephone, by text, by email, that
9 type of thing.

10:09 10 Q. Do you remember about when you first started communicating
11 with Mr. Crater?

12 A. Yes, in 2014, right around the time I got involved with My
13 Big Coin.

14 Q. What did you understand Mr. Crater's background to be?

15 A. Well, I understood his background to be in software. He
16 was a software designer. He had several companies dealing with
17 software, amongst which one was Greyshore Technologies, or
18 Greyshore, and he had developed software over a period of time.
19 It had different applications, different business applications.
10:10 20 It was used in the gaming industry, I was told, for one use,
21 and it had other types of uses.

22 Q. When you were first introduced to Mr. Crater, were you
23 impressed with him?

24 A. Well, I was impressed with the product and the idea. He
25 likened it to Bitcoin, and at that particular time Bitcoin was

1 a very significant and important discussion in the business
2 world. So, yes, I was impressed with his ideas and his
3 products.

4 Q. Did you find him persuasive when you first spoke to him?

5 A. Yes. I spoke with him and Mr. Kruger and Mr. Gillespie
6 during this time, all three of them. I was particularly
7 impressed by the scope of what they were doing, what they had
8 built, and the way it was presented to me.

9 Q. Did Mr. Crater ever show you the source code for My Big
10:11 10 Coin?

11 A. No, sir.

12 Q. Did he ever show you a white paper explaining how it
13 operated?

14 A. No.

15 Q. Did he ever tell you that he was selling you coins in a
16 presale before My Big Coin was launched?

17 A. Absolutely not.

18 Q. Have you met with me before today?

19 A. Yes, I have.

10:11 20 Q. Did you have an opportunity to review an exhibit binder of
21 emails between you and Mr. Crater?

22 A. I did.

23 MR. MOORE: I'm going to ask to show, just for the
24 witness, Exhibit 11W.

25 Q. At the top of this email, there's an email from

1 greyshore@icloud.com. Whose email address is that?

2 A. Mr. Crater, Randall Crater.

3 THE COURT: Sir, can you just move the microphone
4 over?

5 THE WITNESS: Yes, thank you. Sorry.

6 BY MR. MOORE:

7 Q. And then there's also a "To" email here that's
8 jlynch@ldnllp.com. Whose email address is that?

9 A. That's my business email address.

10:12 10 Q. Have you reviewed the emails that are contained in the
11 binder that are Exhibits 11 through 14? Have you had an
12 opportunity to review those emails?

13 A. I don't have the binder in front of me, but, yes, we
14 reviewed those emails.

15 Q. And are those emails a true and correct copy of your
16 communications with Randall Crater?

17 A. Yes, they are.

18 MR. MOORE: Your Honor, at this time I'd ask to admit
19 Exhibits 11 through 14 and the rest of the uncontested
10:12 20 exhibits.

21 THE COURT: Which is 1A through 15I?

22 MR. MOORE: Yes, your Honor.

23 THE COURT: Any objection?

24 MR. LOPEZ: No, your Honor.

25 THE COURT: Those may be admitted, 1A through 15I, and

1 they may be published as you wish.

2 (Exhibits 1A - 15I received into evidence.)

3 MR. MOORE: Can we publish 11W now.

4 THE COURT: You may.

5 Jurors, you should now see it on your screens.

6 Thank you.

7 BY MR. MOORE:

8 Q. At some point did you attempt to purchase My Big Coins?

9 A. I did.

10:13 10 Q. And did the My Big Coin website accurately track the
11 number of coins you were supposed to have?

12 A. No.

13 Q. So did you, therefore, have to keep track of the number of
14 coins you were supposed to have yourself?

15 A. Well, I did that, yes. I kept track of my funds that I
16 used to purchase My Big Coins and I kept track at what price I
17 purchased them and what the dollar value was of those, real
18 dollar value.

19 Q. And when you wanted to have the number of coins that were
10:14 20 listed belonging to you corrected, who would you email?

21 A. I would email either directly to Randall Crater or to Mark
22 Gillespie ordinarily. Once in a while to Mr. Kruger at the
23 beginning, but the people that I communicated most directly
24 with on these matters were either Mr. Crater himself or Mark
25 Gillespie.

1 Q. All right. And in this email, you write, Attached is a
2 list of the total amounts to be allocated to each individual
3 account. Additionally, I will more carefully review my own
4 account and previous wires before speaking with you over the
5 weekend.

6 When you write that, is that you trying to update
7 Mr. Crater -- have Mr. Crater know that your account needs to
8 be updated?

9 A. I'm not sure I'm on the same page with you here.

10:15 10 THE COURT: Counsel, I'm not sure I'm seeing that.

11 MR. MOORE: Could we go down one page?

12 A. Now I'm there, okay. I see what you mean now. Yes.

13 Q. So I'm reading here from right after the comma it says,
14 Attached is a list of the total amounts to be allocated to each
15 individual account.

16 Additionally, I will more carefully review my own
17 account and previous wires before speaking with you over the
18 weekend.

19 Is that you?

10:15 20 A. That's correct, sir, yes.

21 MR. MOORE: And then can we scroll up?

22 MR. MARKHAM: Your Honor, if we just could -- the
23 touch screen has now made a line.

24 THE COURT: So, counsel, can you clear that or,
25 Ms. Hourihan, can you.

1 Thank you.

2 (Discussion off the record.)

3 BY MR. MOORE:

4 Q. And then do you see at the top here where on July 18th at
5 5:26 p.m. Mr. Crater says, No worries, sir, at all. I have
6 sent your list over to my office manager to make sure this is
7 handled, and I think you will see there is more coins than you
8 have sent in your account, my friend. I'm trying to look out
9 for us. I think we are going to be a great team.

10:16 10 Do you see that?

11 A. I do see that, yes.

12 Q. What did Mr. Crater mean with this response?

13 MR. LOPEZ: Objection.

14 THE COURT: Overruled.

15 A. Well, as stated in his response to my question, he said he
16 turned it over to his office manager and I'd be pleased because
17 I would see that there were more coins in my account than
18 apparently I paid for.

19 Q. All right. Can we go to Exhibit 11X?

10:16 20 A. And he also called me a friend and whatnot.

21 Q. Did you encourage others to invest in My Big Coin?

22 A. I did. I went to my friends and I also invested for some
23 of my family members.

24 Q. Why did you encourage them to invest?

25 A. I thought it was a great deal. I thought within

1 approximately 60 days or less of my initial investments that
2 the company was going to go public and it would make a lot of
3 money. So not only was I pleased for my finding this, I went
4 to family and friends and spoke with them about it and
5 suggested that they might consider it as well.

6 Q. Did you make representations to them about how My Big Coin
7 operated?

8 A. Yes. I probably told them what I knew and why I thought
9 it was a good investment. At the time it was portrayed as
10:18 10 being backed by gold bullion, oil, and around that time, or
11 shortly after, by insurance, and it was told to me that it was
12 really safer than the U.S. dollar because of the gold backing.

13 Also, on the materials that they published on the
14 website and whatnot, there were other businesses like
15 MasterCard, Visa, American Express, all being portrayed as in
16 the system with My Big Coin.

17 So these representations made me feel good about the
18 investment, and I was told that it was going to go public
19 almost immediately, and I was encouraged to move quickly.

10:18 20 Q. Did you help track your friends' investments?

21 A. I did. For people that I -- to whom I discussed and
22 presented what I was doing, I did keep track of their
23 investments to make sure that their accounts were accurate.
24 These were my friends and my family.

25 Q. So just an email of you trying to keep track of your

1 friends' and family's investments?

2 A. Can I take a minute and read it.

3 (Pause.)

4 Q. I'll just read the first sentence.

5 Enclosed please find my updated statements, which I
6 spent the afternoon reviewing, which I believe now to be
7 accurate. Unfortunately on Friday I had not included all of
8 the wires that I had sent previously.

9 The first two-page summary shows the amounts for each
10:19 10 account, including wires done by various individuals, as well
11 as myself, and a summary of what I believe are my holdings with
12 the inclusion of any additional accounts, with Michael
13 indicated you were considering to retire my loan.

14 The second two-page summary lists the necessary
15 allocations for all individual accounts for family and friends,
16 not including my own account.

17 Is this an email of you trying to update your friends
18 and family account?

19 A. Yes, it is.

10:20 20 Can I look at the date again, please, at the top?

21 Right, exactly. Yes, it is.

22 Q. Who did you send this email to to update your friends and
23 family?

24 THE COURT: Just for the record, this is Exhibit 11X.

25 Counsel, if we're moving to other exhibits, if you

1 could just say what the exhibit number is.

2 MR. MOORE: Yes, your Honor.

3 THE COURT: Thank you.

4 A. So on 11X, Exhibit 11X, I sent this email to Mr. Randall
5 Crater.

6 MR. MOORE: Can we go to Exhibit 13F.

7 THE COURT: Thank you.

8 BY MR. MOORE:

9 Q. Can you tell the jury who Tom Callahan is?

10:20 10 A. Tom Callahan has been a friend of mine for decades.

11 Q. Did he invest in My Big Coin?

12 A. Well, I'm not sure he had any of his own money in, but I
13 told him about it. He is a wonderful guy, lives paycheck to
14 paycheck, and we're close friends, so I put up my money for him
15 on the understanding when it went public that he would pay me
16 back. And it looks like I detailed the amounts that I wired in
17 for Mr. Callahan on Exhibit 13F here, as you indicated.

18 Q. And the first sentence of this email says, It has been
19 brought to my attention that Tom Callahan's MBC account is
10:21 20 missing the last investment I made on his behalf. According to
21 my accounting records, as well as the allocations for
22 individual accounts previously forwarded to you, Tom's MBC
23 account should be as follows.

24 Is this an email of you trying to have Mr. Callahan's
25 account updated?

1 A. Yes, it is. You can see that this is two-and-a-half years
2 after the original investments. Tom's investments in his name
3 started in 2014, and there I was two-and-a-half years later or
4 two years later trying to get it corrected.

5 Q. Have you invested in the stock market before?

6 A. I have.

7 Q. And has it been your general experience when investing in
8 the stock market that you need to track your accounts like
9 this?

10:22 10 A. Well, usually the brokerage companies send you statements
11 every month, and they do it for you.

12 I've never been in this kind of a situation before
13 where you had to log into the website, put in your codes, and
14 then find the amount of your investment incorrectly stated in
15 your account. I've never had that experience before with any
16 stock market investments or any types of investments really.

17 Q. What was the My Big Coin exchange?

18 A. My Big Coin Exchange was a system that you could go to
19 through the website, log in like you might in your own private
10:23 20 bank account, access your account, and go to a page that would
21 track recent activity in the coin, acquisitions or sales. And
22 usually there would be a half a dozen trades listed. They
23 would have the date of the trade, the amount of coin either
24 listed for sale or that had sold, the date and the price on
25 which they sold. And the price would vary because I think at

1 the time, you know, clearly, whether it was Bitcoin or My Big
2 Coin or some other cryptocurrency, there was volatility in the
3 market. So one trade might be for \$200, the next one might be
4 \$250, the third one could be \$175, that type of thing.

5 So you'd look at the date, you'd look at the amounts,
6 and you'd get a picture from what the value of the coins were
7 at that point in time.

8 Q. Did you list coins for sale on the My Big Coin Exchange?

9 A. I tried to on at least two occasions.

10:24 10 Q. Did you ever pull back that listing that you had put on
11 the My Big Coin Exchange?

12 A. Yes, I did in both instances.

13 Q. Did you talk to anyone before you pulled back that
14 listing?

15 A. I talked to -- Mr. Crater was the person I talked most
16 about it, and I also probably mentioned Mr. Gillespie,
17 mentioned it to him as well.

18 Q. Were you ever successful in selling any of the coins that
19 you listed on the My Big Coin Exchange?

10:25 20 A. No. As a matter of fact --

21 MR. LOPEZ: Objection.

22 THE COURT: I'm sorry, there was an objection.

23 THE WITNESS: Oh, sorry.

24 THE COURT: Can you say in a word?

25 MR. LOPEZ: Assumes a fact.

1 THE COURT: Well, overruled. Based on the previous
2 questions and answers, I'll allow it.

3 THE WITNESS: I'm sorry, Mr. Moore, could you repeat
4 the question, please.

5 BY MR. MOORE:

6 Q. Were you ever successful in selling any of the coins you
7 listed on the exchange?

8 A. I was never successful. In fact, I was dissuaded from
9 doing that by Mr. Crater.

10:25 10 Q. Can you describe what you mean by saying you were
11 dissuaded by Mr. Crater?

12 A. Well, he advised me that at the times I was doing the sale
13 or attempting to do the sale to get some liquidity and learn
14 how the exchange worked, that we'd almost immediately be going
15 public and the coins would be worth far more than what I might
16 reap from a sale at that particular time.

17 So he was very affirmative about that, and based on
18 Mr. Crater's representations to me, I pulled it back thinking
19 I'd make more money later by hanging onto the coins.

10:26 20 Q. All right. And I'm just going to make sure that I
21 understand what you're saying.

22 Are you saying that you listed on the exchange, they
23 did not sell, you spoke to Mr. Crater, and he advised you now
24 to delist them, is that what your testimony was?

25 MR. LOPEZ: Objection.

1 THE COURT: Well, sustained -- as to form, I'm
2 assuming. Sustained as to form.

3 Counsel, you can rephrase.

4 BY MR. MOORE:

5 Q. So are you saying that you listed the coins on the
6 exchange?

7 A. I got to the point where, yes, I was listing them or -- it
8 did list them and then I'd have conversations with Mr. Crater
9 almost simultaneously or right after.

10:27 10 Q. And were they active on the exchange for at least some
11 period of time?

12 A. Yes. In one instance I waited I believe a week or
13 thereabouts, so they were on the exchange I thought for that
14 period of time.

15 Q. And during that week did you have any offers to purchase
16 your coins?

17 A. None.

18 Q. And then after that week did you have a conversation with
19 Mr. Crater?

10:27 20 A. Well, I might have had the conversation during that week,
21 and he told me what I said earlier, that, you know, very
22 shortly the coins -- the company was going to go public and the
23 coins would be worth a far greater amount than the amounts that
24 I had listed them on the exchange for.

25 Q. And then based off of that conversation with Mr. Crater,

1 did you take any action?

2 A. I delisted them or removed them and then tried to have
3 those coins returned to my account in chief.

4 MR. MOORE: Can we bring up Exhibit 13B.

5 Q. And is this another email between you and Mr. Crater?

6 A. Yes, it is. It's dated Wednesday, April 13, 2016 in the
7 afternoon.

8 Q. In the bottom email you say, I have checked again and
9 nothing has changed. The accounts have not been updated. Is
10:28 10 it just delayed, or something other than that?

11 And in the top email Mr. Crater writes back, I did it
12 myself, so I know it got done. I stopped the sale of the coins
13 and refunded your account. It may take a little for it to
14 update but I did this myself.

15 Can you explain to the jury what's going on in this
16 exchange?

17 A. Once again, this is two years after I started, the amounts
18 in my account were incorrect, I felt. I, once again, brought
19 this to the attention of Mr. Crater, who was the person in
10:29 20 charge of making adjustments to the account, and on that
21 particular day, it looks like I e-mailed him at 3:22 p.m. and
22 he responded at 3:46, I did it myself, I got it done, and
23 refunded your account.

24 MR. MOORE: Can we bring up Exhibit 13A.

25 A. The last part of that, Live every minute with love in your

1 heart, grace in your step and gratitude in your soul, is like a
2 theme song that he plays on his emails. It's in many of the
3 emails.

4 Q. All right.

5 Here at 1:42 you say, The balance shown on my account
6 is now \$1,100. Justine was successful in transferring 1,001
7 back into my MBC Wallet. However, she is now getting an
8 insufficient balance alert when she tries to transfer the
9 remaining 1,100. She thinks there may be a cap as to the
10:30 10 amount that can be transferred.

11 Although the coins do not yet appear in my Big Coin
12 account, I am assuming I will see the updated balance tomorrow?
13 Can you take care of transferring the remaining 1,100 coins in
14 my exchange account back to my MBC Wallet?

15 And then in the top email Mr. Crater responds back,
16 It's handled now.

17 Can you explain to the jury what's going on in this
18 exchange?

19 A. Once again, I was trying -- I believe at this time trying
10:30 20 to get the coins back into my account that we delisted, it
21 appears from the dates. We were having trouble doing that.

22 My paralegal was Justine Mahoney, who helped me with
23 these things. There seemed to be a cap on what you could move
24 back, and that was the thrust of the first email.

25 And then I got Mr. Crater's response telling me it's

1 handled now.

2 Q. Do you know whether any of your friends and family that
3 you encouraged to invest in My Big Coin were able to
4 successfully sell any of their coins on the My Big Coin
5 Exchange?

6 A. I know of nobody that told me that they had successfully
7 sold coins on the exchange.

8 Q. Are you familiar with the My Big Coin Wallet?

9 A. And I'd like to amend that by saying that people that were
10:31 10 my friends or my family. I'm not talking about people that I
11 didn't have contact with.

12 And what was the next question? I'm sorry.

13 Q. Are you familiar with the My Big Coin Wallet?

14 A. Yes, that came later, sometime probably in the late 2015,
15 2016 time frame, or -- probably 2016, 2016.

16 Q. Who developed the My Big Coin Wallet?

17 A. Randall Crater.

18 Q. Did you have conversations with Mr. Crater about the My
19 Big Coin Wallet?

10:32 20 A. I did with him and with Mr. Gillespie. They were almost
21 interchangeable on some of these conversations.

22 Q. What is your understanding of what the My Big Coin Wallet
23 is?

24 A. Well, they developed a system. They froze or stopped
25 using the regular exchange that I described to you before where

1 I wasn't able to sell any coins, and they developed a new
2 system, which is -- was going to work more like a bank
3 situation. So they had a MasterCard credit card issued by a
4 bank, and the bank's name was Allied National Bank. And the
5 idea would be that when you went to sell coins, it would pass
6 through the credit card and the proceeds would then go into a
7 wallet, a repository for your coins, and then you could direct
8 the funds from your wallet to however you wished to use them.

9 Q. Was it your understanding that My Big Coin was backed by
10:33 10 assets?

11 A. Yes. It was explained to me that My Big Coin was backed
12 by gold bullion, oil, and at some point early on by insurance.
13 And I remember corresponding at various times with both
14 Mr. Crater and Mr. Gillespie about that and getting responses
15 about that very thing from them.

16 Q. And what did you understand being backed by gold and oil
17 and insurance to mean?

18 A. Well, there's something in the emails where I had sent
19 him, Mr. Crater, with probably a copy to Mr. Gillespie, who was
10:34 20 his administrative assistant, I had sent them an email about a
21 company that went bankrupt, a coin company, I think it was
22 called Mt., M-t, Glox, G-l-o-x, and there had been some fraud
23 or scamming going on and investors lost money with that. So I
24 sent them a summary of a news article that I had seen, I think
25 in the Wall Street Journal, and they responded something to the

1 extent that we have gold backing and, you know, I remember the
2 figures being something like 300 million in gold bullion or
3 gold backing, so we don't have to worry -- investors wouldn't
4 have to worry about that with that kind of backing.

5 Q. So what did you understand would happen if there was a
6 failure in My Big Coin?

7 A. Well, I understand that -- I understood, and it was
8 critically important to me that the currency, the Big coins, if
9 you will, were supported and backed by gold bullion, by oil and
10:35 10 by insurance. That was like, I described it, as I think a
11 three-legged stool.

12 Q. Did you understand that one day in the future My Big Coin
13 would be backed by gold, insurance or oil, or did you
14 understand that currently it was already backed by gold, oil or
15 insurance?

16 A. Right from the get-go, it was a big part of my decision.

17 Q. Did Mr. Crater tell you he needed to implant this backing
18 gold, oil or insurance or did he tell you this was something
19 that already happened?

10:35 20 MR. LOPEZ: Objection.

21 THE COURT: Sustained as to form, counsel.

22 So, counsel has to ask you another question.

23 THE WITNESS: Yes, your Honor. I'm sorry.

24 BY MR. MOORE:

25 Q. Did he tell you that he needed time to implement this

1 backing that he described to you?

2 A. It was clear from everything he told me and Mr. Gillespie
3 told me and Mr. Kruger at the beginning that it was a *fait*
4 *accompli*. The gold was there, it existed, and that was a major
5 attraction to investors. It should limit anybody's anxiety.

6 And I think I mentioned earlier at some point they
7 were saying actually with this kind of backing, it was safer
8 than the U.S. dollar because the U.S. dollar no longer was
9 backed dollar for dollar by gold as it once was.

10:36 10 MR. MOORE: Can we bring up Exhibit 11EE.

11 Q. All right. In this top email, fourth from the bottom
12 line, you say, The insurance concept is really brilliant. It
13 will give users a huge comfort. Is the cost of coverage very
14 expensive? As backup coverage to gold and oil, it must not be
15 too costly. Have a great day, John.

16 Is this an email between you and Mr. Crater discussing
17 this backing?

18 A. The insurance component, yes. It was in 2014 that I sent
19 this to Mr. Crater.

10:37 20 MR. MOORE: Can we bring up Exhibit 11FF.

21 Q. And is this the email you were describing earlier?

22 A. Yes, it is, 11FF, that's correct.

23 Q. All right. And in this top response Randall Crater
24 writes, This looks real good for us since we have gold and oil
25 backing us.

1 Do you see that?

2 A. I do see that.

3 Q. Did you -- at the time, based off of emails like this, is
4 that what you used to form your belief that there was already
5 gold and oil backing?

6 MR. LOPEZ: Objection.

7 THE COURT: Sustained as to form.

8 BY MR. MOORE:

9 Q. All right. What did you think when you saw Mr. Crater
10:38 10 saying, This looks really good for us since we have gold and
11 oil backing us?

12 A. Well, in this email written to me by Mr. Crater in 2014,
13 it just reemphasized what he told me, what Mr. Crater told me
14 at the very beginning of my investments, they were backed by
15 gold and oil, and at some point insurance.

16 So this was nothing new to me. It was right from the
17 get-go is what I think I said earlier.

18 MR. MOORE: Can we go to Exhibit 12G.

19 Q. All right. In this top email, Mr. Crater says back to
10:38 20 you, And we have 300 million in gold backing us, they have
21 nothing, show you how strong we're going to be.

22 What did you understand Mr. Crater to be telling you
23 in this email?

24 A. Once again, he was just reinforcing what he had previously
25 told me and was part of his materials, that they had plenty of

1 gold backing and I guess he was comparing it to another company
2 maybe that I wrote him about that had been in distress. I'd
3 have to see what the chain said, but all this was, was just
4 telling me what I already knew from the very beginning.

5 Q. All right. Let's bring up Exhibit 12S.

6 And here in the top email Mr. Crater says to you, What
7 do you think is going to happen to us when the press comes out
8 about our gold and what all we have? Guys get ready, we have
9 Moby Dick on the line.

10:39 10 What did you understand that to mean?

11 A. Well, he -- the company still hadn't gone public a year
12 later, more than a year later, and he was saying that, you
13 know, when the public through the press would find out about
14 the significant gold backing, that, you know, we have a
15 product, you know, that was -- he likened it to something large
16 like Moby Dick, the whale, the giant leviathan. So that's what
17 that was.

18 Q. Did you attempt to investigate this supposed gold backing?

19 A. Well, I did, in a strange way, I did.

10:40 20 The gold, as I understood it, was being milled --
21 being made available from a company with whom or with which
22 Mr. Crater had an agreement, and it was called Harmonie,
23 H-a-r-m-o-n-i-e. And Harmonie was a big financial and
24 construction company with a worldwide reach.

25 Q. Is that you -- and how did you get that information about

1 Harmonie?

2 A. I was told that by Mr. Crater, by Mr. Gillespie, and
3 perhaps early on by Mr. Kruger.

4 Q. Did you ever attempt to have a conversation with anyone
5 from Harmonie?

6 A. Yes, I did.

7 Q. Can you describe to the jury the circumstances around that
8 conversation?

9 A. Yes. It was a little unusual, but I was at my office, my
10:41 10 law office late on a particular night, it might have been a
11 Thursday or a Friday, and I was getting there 6:30 or 7:00, and
12 I happened to be looking at some of the My Big Coin materials,
13 and particularly about the company Harmonie that I described
14 earlier.

15 So I Googled it, and I found out that Harmonie was an
16 international company, as I described. It had various aspects
17 to it. They did large construction projects -- bridges,
18 tunnels, airports, these types of things -- which was explained
19 to me by the three gentlemen I mentioned earlier, Mr. Crater,
10:42 20 Mr. Gillespie, and Mr. Kruger, at various times.

21 So, anyway, they had a mining component and they had
22 an oil or an energy component.

23 So I saw on the website that they had a telephone
24 number for what I thought was a U.S. headquarters in Michigan.
25 So I dialed up the number that was listed on the website, and

1 somebody answered on the other end, and I had a conversation
2 with that person.

3 Q. All right. And did that person indicate to you where they
4 said they were?

5 A. Yes. That was, as I said earlier, the strange part. I
6 dialed Michigan, and when he picked it up, he said he was in
7 Spain and that it was an international company and those calls
8 were forwarded to Spain. I believe he said it was Marbella,
9 M-a-r-b-e-l-l-a, which is on the southern coast, I believe, of
10:43 10 Spain and he --

11 MR. LOPEZ: Objection. I think he's answered the
12 question.

13 THE COURT: Okay.

14 THE WITNESS: I'm sorry.

15 THE COURT: Well, sustained as to the question.

16 Counsel, you can ask another question.

17 BY MR. MOORE:

18 Q. And do you know what time it would have been in Spain at
19 the time you made this call?

10:43 20 A. Well, yes, Spain was approximately six hours behind Boston
21 time, and I knew it was, as I said earlier, sometime between
22 6:30 and 7:00 that I initiated the call from my office in
23 Boston. So it would have been like 1:00 in the morning or
24 close to 1:00 in the morning in Spain, if that's where he was.

25 Q. But at the time did you find this call strange?

1 A. Well, yes, that -- if I were calling a client, I wouldn't
2 expect somebody to be at the office at 1:00 in the morning, so,
3 yes, in that instance it was strange. And I had a conversation
4 with this individual about his company and what they did.

5 Q. And did the individual indicate they knew Randall Crater?

6 A. Yes, he was familiar with Crater. His name was Stewart,
7 and I think it was something like Stewart Bortland,
8 B-o-r-t-l-a-n-d, something like that, Stewart in any event, and
9 he spoke with a British accent and he said he was in Spain.

10:44 10 Q. And did you talk to him about gold backing?

11 A. I didn't get into the particulars because he wasn't going
12 to tell me -- there was only so far he was going to go but he
13 was in the gold and mining business and knew who Mr. Crater
14 was.

15 I asked who he worked for, and it was an Irish last
16 name, William either O'Donahue or Donahue, I think it was
17 Donahue. You know, they had this international business doing
18 these many projects that I spoke about, finance and
19 construction projects, and so on and so forth, around the world
10:45 20 of the type that I described earlier.

21 Q. Did Mr. Crater ever provide you documentation that showed
22 this gold backing?

23 A. Never.

24 Q. So the extent that you knew of the gold backing was
25 Mr. Crater's statement and this conversation, is that it?

1 A. Well, it was all over his website materials, talking about
2 how effective he felt My Big Coin would be, how it was superior
3 to other cryptocurrencies, that it was backed by gold. It was
4 plastered all over everything you might look at, on your
5 statements, in the web materials, so on, so forth.

6 And I did, as I said, decided to call Harmonie one
7 night, and that's what happened.

8 I don't know if that man was in Spain or not. He said
9 he was, but I don't know.

10:46 10 Q. How would you send money for the purchase of My Big Coin?

11 A. By wire from my bank account, which was here in Boston.

12 Q. Do you remember the name of the account where you would
13 send these wires to?

14 A. At the outset it was to Greyshore Technology, Mr. Crater's
15 company.

16 Q. Did you send these wires from here in the District of
17 Massachusetts?

18 A. I did, from Boston, yes.

19 Q. Do you know an individual by the name of Kim Bengé?

10:46 20 A. I did not at the time know who Kim Bengé was.

21 Q. Do you now know who she is?

22 A. I learned five years later that I believe her to be
23 Mr. Randall Crater's sister.

24 Q. All right.

25 MR. MOORE: Can we bring up Exhibit 2B, please.

1 And then if we can -- all right.

2 Q. Do you see the name on this account statement in the top
3 left corner?

4 A. Yes, I do, Kimberly Renee Benge, d/b/a Greyshore
5 Advertiset. It could be advertisement, I'm not sure.
6 Advertiset, whatever that means.

7 MR. MOORE: Can we go to page 40, line item for April
8 8, 2014.

9 Q. All right. Do you see a wire transfer here for \$200,000
10:48 10 for John Lynch?

11 A. Yes, I do.

12 Q. Is this a wire transfer made by you?

13 A. Well, yes, it came from my bank.

14 Q. And is this the -- so this is -- and you sent this to Kim
15 Benge's Greyshore account, is that accurate?

16 A. Yes.

17 Q. And who instructed you that that's where you should send
18 the wire to?

19 A. Mr. Crater and probably also Mr. Gillespie. But
10:48 20 Mr. Crater definitely.

21 MR. MOORE: Can we go to page 50, please.

22 And can we go to the entry for May 1, 2014.

23 Q. And do you see this wire transfer for \$250,000?

24 A. I do see it, yes.

25 Q. Is this a wire transfer you made to the Greyshore account?

1 A. Yes, from my bank to the Greyshore account.

2 Q. And who instructed you to make this wire to the Greyshore
3 account?

4 A. Can you show me the Greyshore piece? I don't know where
5 this went, whether it went to Greyshore or to Kimberly Benge.

6 Q. All right. So this is the same account statement.

7 We'll just go back to the bottom. Can we go back to
8 the first page.

9 A. Oh, I see what you're saying. Yes, Kimberly Benge, who is
10:49 10 at Greyshore.

11 Q. So now we're going to page 86 of this same account
12 statement.

13 A. Thank you.

14 Q. And August 13, 2014.

15 And for the same account statement, there's a wire
16 transfer for \$103,000. Did you make this wire transfer?

17 A. Yes.

18 Q. And did you -- and who instructed you to make these
19 transfers to the Greyshore account?

10:50 20 A. Let's see. In all instances, it would be Mr. Crater,
21 Mr. Gillespie, and possibly early on I might have -- Mr. Kruger
22 might have been in the loop slightly. Both of those people
23 took their direction from Mr. Crater. They were functionaries,
24 but in the loop.

25 MR. MOORE: Can we bring up Exhibit 11AA.

1 Q. All right. In this email at 6:02 p.m., you write to
2 Randall, There's been additional wires by me today in the
3 amount of \$140,700 and Maureen Arnold from Dublin last week in
4 the amount of \$50,000. Please note that 103 wired from my
5 account is to be entered totally for coins, the others are
6 split 50 percent stock, 50 percent coins.

7 What did you mean Split 50 percent stock, 50 percent
8 coins?

9 A. Well, early on when I started investing, in anticipation
10:51 10 of the company going public within 60 days of my beginning
11 investment probably in April of 2014, in discussions primarily
12 with Mr. Crater, he suggested that he thought the price of the
13 stock might really take off and it might even be greater than
14 coin. So he suggested that I put the original deposit 100
15 percent into the coin, but on the understanding I might do
16 better if I split half of the original investment in coin to
17 become or convert it to half coin, half stock when the stock
18 went public. And the anticipation was the stock was going to
19 go public very shortly thereafter.

10:52 20 So that's what I did. I indicated that I would be
21 amenable to his advice and asked that the accounts be split
22 50/50.

23 Q. Was the money you gave or you sent to Mr. Crater, was
24 those for business investments?

25 A. Oh, of course, yes.

1 Q. Did you ever loan money to Mr. Crater?

2 A. No.

3 Q. Did you ever give money to Mr. Crater as a gift?

4 A. No.

5 Q. Did you ever provide a personal loan to Mr. Crater?

6 A. No.

7 Q. Did you receive a MasterCard related to My Big Coin?

8 A. Downstream from the original investments, as I said
9 before -- oh, and let me go back a second.

10:52 10 Originally there were some MasterCards issued to
11 investors and they were going to function as debit cards. I
12 didn't think I needed one because I had my own checking
13 accounts and my own credit cards, so I didn't need another
14 debit card, and -- so I didn't get one.

15 Downstream, in response to some of your earlier
16 questions, you asked me what a wallet was, and I said that in
17 order to operate the system at that point in time, there was a
18 wallet which was going to be the repository for your funds,
19 like a bank account, and any transactions would pass through a
10:53 20 credit card issued by this Allied National Bank. And I did get
21 one of those credit cards, and I think it was sometime in the
22 neighborhood of 2016.

23 MR. MOORE: Can we bring up Exhibit 14A.

24 Q. And then in the top of this email you say, I heard -- to
25 Randall Crater -- I heard from Mark today that an account will

1 be opened for each investor, including myself, I think with
2 Allied Bank to redeem shares in MBCP. Also, I believe each
3 investor will be issued a credit card from either Visa or
4 MasterCard that they can use to withdraw some or all of their
5 funds.

6 Is that what you were just describing to the jury?

7 A. Yes, and what helps me about this, I said 2016 to your
8 last question. It appears that it was in 2017 in March.

9 Q. Did your card work?

10:54 10 A. Well, that's another thing. The card that I received in
11 the mail from Allied Bank, and I forget whether Mr. Gillespie
12 sent me the card or it came directly from Allied Bank, but
13 anyway, I got it, and it was a MasterCard and it said "Allied
14 Bank" and my name wasn't on the card. It was blank, but it did
15 say "preferred customer."

16 And I had never seen a card like that, you know, from
17 any bank, let alone a new one. And I did receive the card, but
18 I never transacted anything through that card into a wallet
19 because the exchanges, at least at that point, weren't open.
10:55 20 So it was sort of on hold in anticipation of something opening
21 up later.

22 Q. So did the card ever work?

23 MR. LOPEZ: Objection.

24 THE COURT: Well -- so overruled. Overruled.

25 You can answer.

1 Counsel, was your objection asked and answered or
2 foundation?

3 MR. LOPEZ: He just testified to the contrary. He
4 just said he didn't do anything with it, so how would he know
5 if it worked?

6 THE COURT: Well, counsel, no speaking objections.

7 MR. LOPEZ: I'm sorry.

8 THE COURT: Overruled as to that, counsel.

9 You can answer the question.

10:56 10 BY MR. MOORE:

11 Q. Were you ever able to get funds on the card?

12 A. I never got funds on the card because the exchanges that
13 would allow me to use the card and transfer the money after
14 they deducted the transfer fee of two-and-a-half percent, net
15 proceeds going to the wallet, that never came about. There was
16 no access to these exchanges to sell coins. So in that sense,
17 you know, the card was just sitting there gathering dust.

18 Q. Did your friends and family who invested in My Big Coin,
19 did they ever ask for their money back?

10:57 20 A. Some of them did.

21 MR. MOORE: All right. I'm going to bring up Exhibit
22 12I, or can we show the defendant -- or the Court Exhibit 12I?

23 THE COURT: So, counsel, was that not admitted, 12I?

24 MR. MOORE: It is admitted, your Honor, sorry.

25 Could we display Exhibit 12I.

1 THE COURT: It can be published.

2 BY MR. MOORE:

3 Q. Who is Peter Antell?

4 A. Peter Antell was a Boston attorney and my friend for
5 decades. He's a very close friend of mine.

6 Q. Did he invest in My Big Coin?

7 A. He did.

8 Q. At some point did he want the return of his investment?

9 A. Yes, he did. He needed to use the funds to refinance a
10:57 10 mortgage he had on his farm, f-a-r-m, farm.

11 Q. Do you know if Mr. Antell sold his My Big Coins on the
12 exchange?

13 A. No, he came to me and wanted me to buy them and buy them
14 quickly because he was in the midst of this effort to refinance
15 his farm in Upstate New York near the Hudson Valley. He lived
16 in Boston, but he had this other property in New York. So he
17 needed quick action, and at that point in time I communicated
18 with him, I think it's displayed here, suggesting that he might
19 wait because I was told by management, Mr. Crater and

10:58 20 Mr. Gillespie, that we were going to go public very shortly and
21 he'd do very well if he just held on a little bit longer.

22 Q. In this top email you say to Randall Crater, Gentlemen,
23 Please transfer Peter Antell's account to mine today as I will
24 purchase his position for \$20,000 now by wiring that amount to
25 his account now. His original investment was \$15,000, half to

1 coins and half for stock after public offering.

2 Why did you send this email to Mr. Crater?

3 A. For two reasons: To let them know that Peter was coming
4 out and I was going to buy his position, and that I would like
5 his account or the coins to be transferred from Peter's account
6 to my account on the purchase. So there was a transaction
7 going on between me and Peter and it would involve Mr. Crater
8 and the company to make the changes.

9 Q. Why would Mr. Crater be the person that you e-mailed about
10:59 10 this transaction?

11 A. Mr. Crater had exclusive control over everybody's account
12 in terms of making transfers and monetary stuff. Neither
13 Mr. Kruger or Mr. Gillespie had any authority to go into
14 somebody's account and make the changes or updates or whatever
15 was required at the time.

16 MR. MOORE: Could we publish Exhibit 12J.

17 Q. Who is Henry Kara?

18 A. Henry Kara --

19 THE COURT: Counsel, it appears we're addressing a new
11:00 20 topic. Given the time, I think we should take our break here
21 and start with this exhibit.

22 MR. MOORE: Yes, your Honor.

23 THE COURT: Sir, you can step down. We're going to
24 take a break.

25 THE WITNESS: Thank you, your Honor.

1 THE COURT: Jurors, as I said, we'll take a 20-minute
2 break. There should be, if the system has worked, there should
3 be snacks upstairs for you, and then we'll resume.

4 THE CLERK: All rise.

5 THE COURT: And you can just leave your pads on your
6 seats. Thank you.

7 (Jury left the courtroom.)

8 THE COURT: Counsel, anything before we break?

9 MR. MOORE: Nothing from the government, your Honor.

11:01 10 THE COURT: Mr. Lopez?

11 MR. LOPEZ: No, your Honor.

12 THE COURT: We'll take 20 minutes, thanks.

13 (Recess taken.)

14 (The Court entered the courtroom.)

15 THE COURT: Counsel, you can be seated. Everyone can
16 be seated. Ms. Hourihan is getting the jury.

17 Mr. Lopez, you're fine to examine from counsel table
18 just as long as Ms. Joyce can hear you and the jury can hear
19 you.

11:21 20 And just on objections, I usually am following the
21 basis or the grounds for the objections, but if I ask for
22 grounds, just a word or two, and if I think I need more
23 narrative, we'll go on our headsets.

24 MR. MARKHAM: Your Honor, can we address just one
25 issue on the record?

1 THE COURT: Sure.

2 MR. MARKHAM: Actually, two issues.

3 One, I was just alerted by my paralegal that one of
4 the jurors when they came in this morning asked her for
5 directions, and she gave them to her. I just wanted to put
6 that on the record.

7 THE COURT: Sure. Understood.

8 MR. MARKHAM: The second issue was just about agency
9 statements. I noticed the Court sustained one objection as to
11:22 10 what one of the agents said. It was rephrased so it wasn't an
11 issue --

12 THE COURT: And I didn't understand at that point that
13 your position was that person was an agent.

14 I understood it to be a hearsay objection.

15 MR. MARKHAM: Yes, your Honor. We're saying there's
16 an exception to all those hearsay statements --

17 THE COURT: No, no. I guess what I'm saying is I
18 didn't understand the person who allegedly asserted it was
19 alleged to be an agent.

11:22 20 MR. MARKHAM: So all I'm doing is just putting on the
21 record we think at this point we have met our burden on the
22 agency exception.

23 THE COURT: What was the name of that person?

24 MR. MARKHAM: Mark Gillespie.

25 THE COURT: Okay. Understood.

1 MR. MARKHAM: And Michael Kruger is the other one.

2 THE COURT: Thank you.

3 MR. MARKHAM: Thank you.

4 THE CLERK: All rise for the jury.

5 (Jury entered the courtroom.)

6 THE CLERK: Court is in session. Please be seated.

7 THE COURT: Thank you.

8 Mr. Moore.

9 BY MR. MOORE:

11:23 10 Q. Do you know an individual by the name of Henry Kara?

11 A. Yes, I do.

12 Q. And who is Henry Kara?

13 A. Henry Kara is -- it's Kara, K-a-r-a, and he's an attorney
14 and a long-time friend of mine, many, many years.

15 MR. MOORE: Can we please publish Exhibit 12J.

16 Q. Did Henry Kara invest in My Big Coin?

17 A. Yes, he did.

18 Q. At some point did he ask for a return of his funds?

19 A. He did.

11:23 20 Q. Did Mr. Kara -- was he able to get his funds back using My
21 Big Coin Exchange?

22 A. No, he came to me.

23 Q. And what did you do after he came to you?

24 A. Much like Mr. Antell, I purchased Mr. Kara's position in
25 February of 2015, in that time frame.

1 Q. And did you have to notify anyone that you purchased his
2 position?

3 A. Well, I think this email on February 18th indicates that I
4 contacted Randall about it. And I asked him to transfer
5 Henry's funds to my account. I advised Mr. Crater, Randall,
6 that I'm able to wire the funds right now or give him a check.
7 Is either payment preferable from the company's perspective?
8 And I thanked him for his attention and guidance.

9 Q. Who -- do you know an individual named Ernest DeSimone?

11:25 10 A. Yes, I know him well as well.

11 Q. And who is he?

12 A. Ernest or Ernie is a lawyer who's retired and he was one
13 of my law partners.

14 MR. MOORE: And can we bring up Exhibit 12P.

15 Q. Did Mr. DeSimone invest in My Big Coin?

16 A. Yes, he did.

17 Q. At some point did he ask for a return of his investment?

18 A. He did.

19 Q. Was he able to use the My Big Coin Exchange?

11:25 20 A. Again, like Mr. Antell and Mr. Kara, he came to me
21 directly and I purchased his position as well to increase my
22 share of coins and to accommodate their wishes.

23 Q. And why did you purchase each of these individual's coins?
24 Why did you do it?

25 A. Well, I felt responsible for putting them into the mix, so

1 to speak, into the investment mix, and they wanted their money
2 for various reasons quickly, and I felt, you know, they didn't
3 want to go through an exchange, and I thought that -- at that
4 point I was still thinking it would be a good investment,
5 because when I spoke to Mr. Crater about this and to
6 Mr. Gillespie and perhaps even to Mr. Kruger, they particularly
7 said, you know, they shouldn't be getting out, this thing is
8 going to go public, they're going to miss the boat, this is
9 going to do very well. Those types of things were said to me
11:27 10 continuously and at this time.

11 Q. Were you attempting to make your friends whole?

12 A. Well, yes. I did want to do that. In fact, I paid
13 Mr. Antell a little bit more than he originally invested
14 because he said the coins were trading at that point for more
15 than he invested and he wanted 20,000 instead of 15. I did pay
16 the 20,000. He was my friend. I didn't want to argue with him
17 about that, and I'm glad I did it. He's my friend for years.
18 He's now dead. He died of a heart attack in December.

19 MR. MOORE: Can we bring up Exhibit 12P.

11:27 20 MR. LOPEZ: It is up.

21 (Pause.)

22 (Discussion off the record.)

23 MR. MOORE: Let's bring up 120.

24 BY MR. MOORE:

25 Q. All right. In this middle email, you forward to Michael

1 Kruger an email that says, Ernie would like to sell his coins.
2 Is his email sufficient to wire funds to Ernie?

3 And then Mr. Kruger -- can you see who Mr. Kruger
4 forwards your message to?

5 A. Yes, it goes directly to Randall Crater at Greyshore.

6 Q. Do you have an understanding of why Mr. Kruger would then
7 need to send this message to Mr. Crater?

8 MR. LOPEZ: Objection.

9 THE COURT: Sustained.

11:28 10 BY MR. MOORE:

11 Q. Who did you understand was the person who had the ability
12 to update the accounts for My Big Coin?

13 A. Exclusively Mr. Crater. As I mentioned before --

14 MR. LOPEZ: Objection.

15 THE COURT: I'm assuming it's foundation, counsel,
16 your objection?

17 MR. LOPEZ: He's answered the question. He's answered
18 the question and continued to speak.

19 THE WITNESS: I hadn't completed --

11:29 20 THE COURT: Well, counsel -- sustained as to asked and
21 answered, but you can ask a follow-up question.

22 Mr. Moore.

23 BY MR. MOORE:

24 Q. And what was your basis for understanding that Mr. Crater
25 was the person who updated the account?

1 A. Well, I knew that from Mr. Gillespie, who was sort of the
2 administrative person. He had no authority, told me as such,
3 and Mr. Crater said only -- excuse me, Mr. Kruger made it clear
4 as well that only Mr. Crater could go in and change the
5 accounts under his authority. He had exclusive control and
6 authority over the accounts.

7 Q. Did you ever indicate to Mr. Crater that you needed access
8 to the money that you had invested in My Big Coin?

9 A. A couple of times, yes, I needed liquidity, and I
11:29 10 mentioned that or told that to Mr. Crater.

11 Q. Did Mr. Crater ever provide you any funds?

12 A. No.

13 MR. MOORE: Can we bring up Exhibit 13C.

14 Q. All right. And this is an email from Mr. Crater to you
15 and Mr. Gillespie in which he says, John, I confirmed your
16 licenses are sold for you and you doubled your money on that
17 deal alone and you will be paid out Monday.

18 Do you remember, were you paid out the Monday
19 following this email?

11:30 20 A. I was not on that Monday or any Monday. Mondays never
21 came with Mr. Crater.

22 Q. All right.

23 MR. MOORE: Can we publish just to the witness Exhibit
24 G1.

25 THE COURT: Just for the witness and counsel.

1 BY MR. MOORE:

2 Q. Do you remember having text exchanges with Mr. Crater?

3 A. Yes. Mine says "G," it doesn't say "G1." Is that what
4 you want?

5 Q. G, yeah.

6 Before today did you review a printout of these text
7 exchanges with Mr. Crater?

8 A. I did.

9 Q. At the top of this in the top left corner, there's a phone
11:31 10 number that is 617-974-8414. Do you recognize that phone
11 number?

12 A. I do. It's mine.

13 Q. And then below that there is another phone number that is
14 631-346-1870. Do you recognize that phone number?

15 A. Yes, that was Mr. Crater's at that time, correct.

16 Q. The text messages that are contained here in Exhibit G,
17 are they a true and correct copy of the text exchanges you had
18 with Mr. Crater?

19 A. Yes, they are.

11:31 20 MR. MOORE: At this time the government moves to admit
21 Exhibit G, your Honor.

22 THE COURT: Any objection at this point?

23 MR. LOPEZ: No, your Honor.

24 THE COURT: They may be admitted. What's the next
25 number, available number, counsel?

1 MR. MARKHAM: I believe it's 16, your Honor.

2 THE COURT: Okay. 16. It's admitted. It may be
3 published if you wish.

4 (Exhibit 16 received into evidence.)

5 BY MR. MOORE:

6 Q. Can we go to page 1 at 7:26:01.

7 And then there's this first message in which you say,
8 What a gorgeous morning. I guess you did not learn anything
9 from the bank yesterday or you would have told me. I have run
10 out of time. So is it possible now to sell one of my four
11 marijuana licenses or my investment in the Trokie business?
12 What is the value approximately of a license? This is probably
13 a better solution that would bring in much more money quicker
14 than trying to sell 1,000 coins. Would you call me soon in the
15 morning to discuss this, please.

16 Could you explain to the jury what is going on in this
17 exchange.

18 A. Yes. The date is April 11th and I have quarterly tax
19 payments due on April 15th and taxes I pay on a quarterly
11:33 20 basis. And so I was getting concerned about liquidity enough
21 to pay my taxes.

22 So I wanted to get some money out to be able to do
23 that, and he had -- there's a string of these emails. We were
24 waiting to hear from his bank yesterday, and I'm telling him
25 I'm running out of time. Rather than wait for other funding

1 that he said was coming, could I sell one of the four marijuana
2 licenses that I purchased from him or my investment in the
3 Trokie business, which is a type of marijuana, that I was
4 involved with with Mr. Crater. I asked if I could sell one of
5 the four licenses. I'm asking him what is the value of a
6 license.

7 I paid about \$750,000 for each license. And I thought
8 that would be a quicker solution rather than trying to sell a
9 thousand coins. I offered to fly to his office to work on the
10 sign-off of the transaction, his office being wherever he was
11 going to be, in New York, I guess.

12 Q. So you said you needed this money for your taxes; is that
13 correct?

14 A. Well, I did need it for that and that's why I was willing
15 to fly to meet him right away and get to work on this and get
16 it done.

17 MR. MOORE: Can we go to page 6 and go to 5:08:15.

18 Q. And then you start, about midway through you say, I asked
19 previously about selling coins to pay taxes due tomorrow. You
11:34 20 said that was unnecessary. All over the world money is moved
21 in hours and overnight if it's late in the day. I need money
22 tomorrow and would hugely appreciate your assistance with this.
23 Would you kindly confirm your willingness to do this for me.

24 So is this the -- you asking him for money for taxes?

25 A. Yes. There was supposed to be some money coming to me

1 through his bank. He was wiring me money, and the wire never
2 came, and I kept prodding him to do that and alerting him to
3 the fact that we were getting closer and closer to tax day.

4 Tax day that year was extended because it came over
5 the weekend and I think there was a federal holiday involved as
6 well, so they were due approximately on April 18th that year,
7 as I recall.

8 Q. Do you remember text exchanges about gold?

9 A. Could you repeat that? I'm sorry.

11:35 10 Q. Did you ever have any text conversations with the
11 defendant about gold?

12 A. Yes.

13 MR. MOORE: Could we go to -- stay on page 6 but go to
14 8:07:18 a.m.

15 All right.

16 Q. And Mr. Crater writes to you, Morning, John. I'm flying
17 out today to assure your funds, my friend. We are so beyond
18 good on so many fronts.

19 You respond, Randall, are my funds overseas? Would
11:36 20 you spare a minute for a quick call now, please?

21 And Mr. Crater responds back, Of course they are.
22 Everyone knows that, John.

23 And then Randall responds back, There is anything new
24 to anyone at all it's a gold deal to get it here. I'm making
25 sure you're funded this week, not anyone else, you.

1 What did you understand when he said It's a gold deal
2 to get it here. I'm making sure you're funded this week?

3 A. Well, he was indicating that he was sensitive to my needs
4 to get money and apparently he was going to sell some gold and
5 he was going to make sure I was funded this week, and the funds
6 were going to come by way of wire, and this was sort of an
7 ongoing promise or effort on his part that preceded April 18th.
8 This had been going on for a while.

9 MR. MOORE: Can we go to page 37, please, at 7:00 in
11:37 10 the morning and 55 seconds.

11 Q. And starting here, you say, Okay, that is fine. You are
12 welcome at my place. I am very near the financial district and
13 we will have some fun as well.

14 And then below that Randall responds back, No, you're
15 not at all, John. It may seem that way, but that's not the
16 case, John.

17 And Randall writes further, I would bankrupt the
18 company and allow the gold to settle things out before that
19 would happen to John. You're my friend.

11:38 20 And you write back, I am a bit confused by the last
21 part of the text. I only said you are welcome to stay those
22 few days at my place. Also, you are welcome to have your
23 family join us here over the weekend. I have room for them
24 also.

25 And then Crater responds back, I read the text wrong,

1 John. I thought you said near financial distress. I didn't
2 have my glasses on, now I see you're near financial district.
3 I was trying to say I have your back and would never allow that
4 to happen.

5 What did you understand him to mean when he said he
6 would bankrupt the company and let the gold settle?

7 A. Well, just that. If you read back over the series of
8 texts that you read and a couple before, he was scheduled to
9 come to Boston to meet with me. He was promising to get money
11:39 10 wired to me, and when I suggested that he could -- that my
11 office was in the financial district and that he could stay
12 with me, he said he didn't have his glasses on and he thought I
13 was in financial distress and he would make sure nothing would
14 happen to me, he would have my back, never allow any financial
15 distress for me and he'd sell the gold and bankrupt the company
16 before he would let that happen. I think that's the sequence
17 of what he said.

18 Q. When he said, I would bankrupt the company, did that
19 suggest anything to you?

11:39 20 A. And allow the gold to settle things out before anything
21 would happen to you, my friend. He was trying to make me feel
22 special and also trying to make me -- let me know that the gold
23 was available, he'd take care of me and, you know, don't
24 stress, that type of thing. That was his *modus operandi* all
25 the time, don't stress, I'll take care of it, I've got your

1 back, those type of things, repeatedly. And nothing ever
2 happened.

3 Q. Did you ever have text conversations with him about cash?

4 A. Yes.

5 MR. MOORE: Can we go to page 29, please, at 3:08:05
6 on May 8th.

7 A. Yes.

8 Q. And then actually go down to 3:10:06, Randall Crater
9 writes, Counting cash right now.

11:40 10 And you say, Call me -- or he says, Call when I'm
11 done.

12 You say, Sounds good.

13 And further at 10:11:59 Randall says, Still working
14 buddy. Haven't forgotten about you.

15 What did you understand him to mean when he said,
16 Counting cash right now?

17 MR. LOPEZ: Objection, foundation.

18 THE COURT: Well, overruled for the purpose for which
19 its being offered.

11:41 20 So you can answer.

21 A. So, again, you had read a previous set of emails. I was
22 looking to get money. All of a sudden on May 5, 2017 at 3:08
23 p.m. he says he's flown to Colorado. I ask him if he's free
24 for a call. He said he's counting cash. Call you when I'm
25 done. And he's still counting cash at 11:59 that evening. He

1 hasn't forgotten about me.

2 So, you know, apparently -- I took it to mean that he
3 had some deal or reservoir of cash that he was counting and he
4 was going to get back to me.

5 Q. Do you remember text conversations with Mr. Crater about
6 armored vehicles?

7 A. Yes, I do.

8 MR. MOORE: Can we go to page 32 and 11:57:13.

9 Q. You ask Mr. Crater about when he's arriving in Boston.

11:42 10 And he responds back, I'm not sure. I'm waiting on the armored
11 car guys.

12 What did you understand this to mean?

13 A. Well, as it said in the upper email, I was trying to get
14 him to Boston so I could find out what the hell was going on on
15 some of these various things. He never came to Boston, but in
16 this one he says, I'm not sure. I'm waiting on the armored car
17 guys.

18 He had told me that he had apparently pallets of cash,
19 piles of cash, that he was going to transfer someplace in some
11:42 20 sort of a -- I'll liken it to a Brinks truck or something like
21 that, armored car guys, and he was waiting for them to come.
22 And that was on May 11th at 11:57 a.m. in the morning.

23 MR. MOORE: Can we go to page 34 at 3:44:35.

24 A. Yes.

25 Q. And Randall says, I'm sitting here waiting on the armored

1 car service man.

2 And you respond back, That must be so annoying. Which
3 one do you use? At some point maybe Allied MBC should buy a
4 company.

5 And Randall responds back, They're already working on
6 that.

7 Is this more conversation about the armored car?

8 A. Yes, it is. And I was probably being a little critical
9 saying, Which one do you use, trying to find out. And then I
11:43 10 made a sort of a sarcastic suggestion that rather than sitting
11 around waiting they should -- maybe they should buy a company,
12 Allied being Allied Bank and MBC, My Big Coin.

13 And then he comes back with, They're already working
14 on that.

15 MR. MOORE: And can we go to page 35 at 7:54:07.

16 Q. You write, Did the truck finally arrive?

17 MR. MOORE: And then if we go down to the next page.
18 Right there.

19 Q. And at 6:57:06 Randall writes back, No, sir, the truck
11:44 20 they sent yesterday couldn't pick up the volume we have here.
21 So I'm heading to the warehouse to sit again for the minute
22 they come. I'm en route to you, John.

23 What did you understand him to mean when he said the
24 truck yesterday couldn't pick up the volume?

25 A. I'm trying to read and listen at the same time. Could you

1 please give me a second? Okay.

2 (Pause.)

3 A. Okay. So I'm still expecting him to fly to Boston and
4 come see me on an early flight from Colorado. And then the
5 third one down, No, sir, the truck they sent yesterday couldn't
6 pick up the volume we have here. So I'm heading to the
7 warehouse to sit again. The minute they come, I'm en route to
8 you, meaning he's going to come to see me in Boston.
9 Apparently, the truck was too small to hold all the cash,
10 according to Mr. Crater.

11:45

11 Q. Do you remember text conversations about cards?

12 A. Could you say that last word again?

13 Q. Of cards, debit or credit cards.

14 A. Of cards, yes, of course, yes, yes.

15 MR. MOORE: Can we go to page 5 at 7:12:34.

16 Q. And at number 3 there, you say, Any real chance of the
17 investor cards arriving today or tomorrow?

18 MR. MOORE: And then if we can actually scroll down to
19 page 7 at 9:46:03.

11:46

20 Q. You write again, Are the cards due to arrive today or
21 approximately when, please?

22 And right below that, Mr. Crater responds, This week
23 all is happening.

24 Do you remember -- did the cards come that week, as
25 Mr. Crater indicated?

1 A. No. It took a long time for the cards to come. I kept
2 asking about them, and I thought the cards were critical to be
3 able to process any bank wire or transaction that would have to
4 pass through the card and go to the wallet. So I was pressing
5 him on when the cards would come. And that was just ongoing
6 and frustrating.

7 MR. MOORE: Let's go to page 15 at 6:26:25.

8 Q. Randall says, And the cards are en route.

9 MR. MOORE: And then if we go down to page 17.

11:47 10 A. Okay.

11 Q. At 7:01:31, you write, Unfortunately, Randall, the cards
12 seem lost. FedEx tracking system rarely fails. You must not
13 have arranged the mailing yourself as it seems the cards were
14 never sent or lost or stolen. What have you learned about
15 this? Really a weird situation about these. Will be a lengthy
16 nightmare to replace.

17 And below that Randall writes, I'm handling in the
18 a.m., John. They are still at the UPS Store. I spoke with the
19 lady who runs the store and the box had fallen out of the bin.
11:47 20 I'm guessing where it got stacked so high but it's fine now and
21 I will get them out.

22 What did you understand this exchange to mean?

23 A. Well, a little -- you've given a literal reading. When I
24 read it, it was -- I was incredulous. It just was silly, I
25 thought.

1 MR. MOORE: Can we go to page 20.

2 Q. And here at 3:11:23, Randall says, Cards going out today
3 John.

4 And then if we go down to page 32 at 12:13:57, you
5 say, My card just arrived.

6 Do you remember finally receiving a card?

7 A. I did get a card, as I think I testified earlier, the one
8 from Allied Bank, MasterCard without my name on it.

9 MR. MOORE: Can we go to page 33 at 12:16.

11:49 10 Q. Here Randall says, I'll start moving funds your way for
11 you to use the card.

12 You respond back, Will that be today?

13 Randall. They are closed at the bank now. Will be
14 tomorrow as it's out of the country, as you know. I'm glad you
15 got the card so fast. That's amazing. I asked them to make
16 that happen. I don't load cards until they get them in case
17 the cards not string there.

18 What did you understand this exchange to mean?

19 A. Well, like many of his messages to me, you really had to
11:49 20 look hard to try to make out the English and the grammar and
21 try to find out what you think he meant because it wasn't
22 always clear. But I think what he was saying here was he
23 doesn't put the cash into the cards or wire the funds until
24 they get them in case the cards are not -- I don't know what
25 "string" means, strung, I'm not sure what it meant, but I think

1 I got the general tenor of it.

2 Q. But were you expecting cash was going to be put on this
3 card?

4 A. Yeah, he kept promising me that, you know, one way or the
5 other he'd get me cash, and there were various ways he was
6 going to accomplish, but I think you've touched on some of them
7 about selling gold and bankrupting the country (sic.) or
8 selling a license, those types of things to create the
9 available funding to send it to me through the card and into
11:50 10 the wallet. That was the procedure.

11 MR. MOORE: Can we go to page 34 at 12:30 p.m.

12 Q. Here at the top at 12:30 you say, Also, Randall, Mark
13 asked me for a loan by wire a short time ago. I can do that
14 soon today comfortably knowing that tomorrow you will be
15 funding me. He is short on food, medicine for his wife,
16 overdrawn on his credit card, and owed money immediately on his
17 car and house insurance to avoid cancellation on both. Arrival
18 and funding of my card (Mark already has his) is so timely for
19 us.

11:51 20 Randall writes back, I had and I told him there is no
21 way I could help him right now.

22 You write, I will this afternoon, but it would be
23 great if you could back me up tomorrow by funding my card.

24 Did Randall fund your card the following day?

25 A. No, sir.

1 Q. All right. Do you remember text messages with Randall in
2 which he indicated that he would be traveling to various
3 places?

4 A. I remember them. It was all very confusing, where he was,
5 where he was going to, whether he was en route, whether he had
6 arrived, whether he was coming back to Boston to see me. It
7 was like scrambled eggs all over the place.

8 MR. MOORE: Let's go to page 25 at 3:09.

9 Q. And here he says, This is going to be my travels. I'm
10 going to California, then Colorado, and then Boston Saturday.

11 Did he go to Boston on that following Saturday like he
12 indicated here?

13 A. Absolutely not.

14 Q. And do you remember other text messages with him talking
15 about traveling to Colorado and California?

16 A. Yes, I think he was supposed to be loading an armored car
17 with piles of cash in the bigger truck in Colorado.

18 Q. All right. Do you remember text conversations with him
19 about the NFL?

11:52 20 A. Yes.

21 MR. MOORE: Can we go to page 13 at 6:27 p.m.

22 Q. So Randall says, So the NFL is getting involved with us,
23 John. Will explain.

24 Did he ever explain to you the involvement of the NFL?

25 A. Not entirely, no. It was -- he frequently would mention

1 companies that he was interviewing with and dealing with and
2 setting up to use the coin and further the potential success of
3 the company by bringing in this new business. And with the
4 NFL, he basically just gave me an overview saying that we're
5 going to get involved with the NFL somehow and the NFL would
6 use the coin. But no explanation beyond that really. But it
7 was always something. It was NFL one time, it was Mexico
8 another time, it was this, it was that, you know, all these
9 stories about businesses or countries coming to use the coin,
11:54 10 and to my knowledge none of it ever happened.

11 Q. Is the NFL here the National Football League?

12 A. Oh, yes, the National Football --

13 Q. Did the National Football League ever adopt My Big Coin as
14 a currency?

15 A. No, not to my knowledge.

16 Q. Do you remember conversations with him about wires?

17 A. Many.

18 MR. MOORE: Can we go to page 2 at 6:17 p.m.

19 A. Oh, I see it, down at the bottom, The cc cleared?

11:55 20 Q. Yeah.

21 A. Okay.

22 Q. Randall writes, The cc cleared, John. The funds should be
23 ready to wire tomorrow.

24 You respond back, That is great news. Can you give it
25 a push tomorrow for me? Also, may I ask what amount will be

1 sent?

2 A. I see that, yes.

3 MR. MOORE: And then can we scroll down.

4 Q. You write, Good morning, Randall, can you respond, please,
5 to my last text yesterday regarding the wire. Also, does "cc"
6 mean the credit card processing in your last text? Thanks
7 John.

8 Randall responds back, The card bought the gold. The
9 gold is being sold today. The wire for the gold clears today
10 and then you will be getting the wire I'm 90 percent tomorrow,
11 John, this is 100 percent.

12 What did you understand this exchange to mean?

13 A. Okay. So we're now in a time frame -- we've gone back
14 from May to just prior to tax date April 13th. So what Randall
15 is telling me is that he's been able to fund the credit card
16 and the way he did it was the card bought the gold, the gold is
17 being sold today, the wire for the gold will clear tomorrow,
18 and then you'll be getting your wire.

19 I think he goes on to mean, in Randall-speak, I am 90
11:56 20 percent tomorrow and, John, the overall deal is 100 percent
21 going to happen. And, again, this, is just a few days prior to
22 date tax date, when I'm essentially begging him to send me the
23 money.

24 MR. MOORE: Can we go to page 3.

25 Q. You write, So tomorrow is most likely the wire day, 90

1 percent probability. What's the amount of the wire for
2 planning purposes?

3 Randall responds back, 3M.

4 What did you understand "3M" to mean?

5 A. He told me that the 3M meant, and I took it to mean 3
6 million, you know, that he had sold the gold and I was going to
7 get \$ 3 million right around in time for the tax date. So
8 that's what we kept waiting for, was money of any type, and
9 this was very good news. I think I said in the next line,
10 That's super, great.

11 MR. MOORE: Can we go to page 8 at 3:11.

12 Q. Randall at 3:12 goes, Wire is going out tomorrow 100
13 percent.

14 MR. MOORE: If we scroll down to 7:34 a.m.

15 Q. And at 7:36 Randall responds back to you, The wire is
16 going out from Europe today, John. You won't receive it until
17 tomorrow. I'm sitting here doing a ton of paperwork in order
18 to make this happen today. You have to show your first born in
19 order to get over a million dollars sent out of the country
11:58 20 that was just deposited into a bank account less than a week
21 ago but it's all good and getting done, John.

22 What did you understand this exchange to mean?

23 MR. LOPEZ: Objection. Can we --

24 THE COURT: I understand. Mr. Moore, just ask the
25 questions.

1 MR. MOORE: Yes, your Honor.

2 BY MR. MOORE:

3 Q. What did you understand this to mean?

4 A. I took that to mean that he was going to send me the money
5 right away.

6 You'll notice on this date it's past tax date. It's
7 4/20. The money was promised a week prior on 4/13. So I'm
8 still chasing him, asking him, Is it still a hundred percent, I
9 asked him at 7:34.

11:58 10 At 7:36, now the wire is going out today from Europe.
11 He had to do a ton of paperwork, and it was just deposited into
12 a bank account less than a week ago but it's all good and
13 getting done.

14 Again, assuring me money is on the way, a check is in
15 the mail type of thing.

16 MR. MOORE: And page 9 at 3:20 p.m.

17 Q. You say, Did you end up sending the wire from Europe
18 today?

19 Randall responds, Yes.

11:59 20 And then if we scroll down, you say, The wire has not
21 been received in my account at Bank of America. Would you
22 confirm with your bank it was sent yesterday, please, and get
23 back to me. Because of the six-hour time difference there's
24 only a few hours left today in Europe before closing.

25 And Randall responds back, Good morning, John, hope

1 all is well. Please don't stress on this. Wire, it's en route
2 to you, that I know for a fact, and it's only 7:36 in the a.m.,
3 John. The wire couldn't even be showing up now at all,
4 honestly. I wouldn't even think that it would show till
5 Monday. Trust me, I'm looking for it like you are, John, and
6 Mark as well is ent us 3 wires me and Mark very small ones.

7 What did you understand that exchange to mean?

8 A. Once again, we're now days after originally he sent --
9 said he had funded the account back prior to the tax date on
12:00 10 February 13th. No money came through. He assures me that it
11 is coming, that it's only 7:36 in the morning wherever he was,
12 I don't know if he was in Europe or where he was at that point
13 in time. And he doesn't think now it will show until Monday.

14 And then he said he's looking for it as well, and
15 apparently there were three wires sent to me and Mark, very
16 small ones.

17 So in addition to my money, which he had promised me
18 \$3 million, he was sending some money to himself and Mark as
19 well from wherever it was.

12:01 20 Q. And then you ask him about the wires, and he responds
21 back, I sure hope so, John. I'm on egg shells.

22 What did you understand him to mean by he's on egg
23 shells?

24 MR. LOPEZ: Objection.

25 THE COURT: Well, sustained as to the -- you can ask

1 another question. Sustained as to form.

2 MR. MOORE: Okay.

3 BY MR. MOORE:

4 Q. What did you understand this exchange to mean when he
5 says, I'm on egg shells?

6 A. Well, he's trying to give me some comfort in saying -- I
7 took it to mean he was as anxious as I was, anxious to take
8 care of me and perhaps take care of himself and Mark.

9 MR. MOORE: Let's go to page 10 at 12:21. Actually,
12:02 10 you can just actually go to 3:58 p.m. at the bottom there.

11 Q. And after you inquire again about the wire, Randall says,
12 100 percent sent. I'll call them a.m. Nothing to worry about
13 at all.

14 A. So if you also read the one in front of it, when I write
15 to him, I'm saying now it's the 24th of April. Are you really
16 sure you wired it to me last Thursday? Are you busy? Could
17 you follow up with them and so on and so forth.

18 And then his answer, as you've indicated here and
19 highlighted, 100 percent sent. I'll call them in the morning.
12:02 20 Nothing to worry about at all.

21 Now we're up to the 24th.

22 Nothing to worry about.

23 MR. MOORE: Could we go to page 11. And starting at
24 4:41.

25 And just go all the way to the bottom.

1 Q. And then, here at 6:46, Randall writes back, Good morning,
2 John. Spoke to the bank. They said the wire will hit your
3 account tomorrow and/or Thursday. Sorry for late fees back but
4 had to wait on the bank to get back to me and for them to open.

5 Did you receive that wire that day or Thursday as he
6 indicated?

7 A. No, sir, not that day, not any day, no wires ever came.

8 MR. MOORE: Can we go to page 17 at 4:54.

9 Q. He writes, The Spain was an ACH different. They both can
10 take up to 7 business days, John, to come through and, yes,
11 your funds should show up tomorrow.

12 What did you understand this exchange to mean?

13 A. Just another excuse that makes no sense because now we're
14 up to April 30th on something that he said he sent on April
15 13th and I guess ACH is a type of wire. But now we're two
16 weeks after he originally sent it and it wasn't consistent with
17 my experience on wiring.

18 MR. MOORE: Can we go to page 18 at 5:05 p.m.

19 Q. And Mr. Crater responds back at 5:07 p.m., Outside of the
12:04 20 country it can take seven days.

21 Is this more conversation about that same wire we just
22 discussed?

23 A. Yes, sir.

24 MR. MOORE: Can we go to page 20. And starting at
25 7:15.

1 Keep going down a little further.

2 Q. And then after you guys have some more conversation about
3 this wire you write, Nothing from Spain today. You said you
4 did the wire on Thursday 4/20 so today is the 8th day. Do they
5 respond your emails or calls? What is the issue do you think?
6 And did you overnight the cards today?

7 What's happening here in this exchange?

8 A. Just more delay and excuses. No funds and at that point
9 no cards.

12:05 10 MR. MOORE: And page 22. Starting at 8:59 a.m.

11 Q. You're asking about the wires from Spain and California,
12 and he responds back, I'm working on all fronts, John.

13 What did you understand him to mean by that?

14 A. Just let me read it, please.

15 (Pause.)

16 A. Again, this is May 3rd, in that time frame, and I'm
17 pressing him. You know, it's now almost three weeks since
18 April 13th, when I was looking for the tax money, waiting for a
19 wire that I would expect overnight or within a day or two, and
12:06 20 nothing.

21 But he says, I'm working on all fronts, whatever that
22 means. Another excuse I took it to mean.

23 MR. MOORE: And then page 25, first at 3:11 p.m.

24 Q. You ask again about the wire. He said, Should be if not
25 tomorrow -- and then if we scroll down to 3:50.

1 You ask again about the wire, and he says, I'll walk
2 in there today and address them.

3 What did you understand that exchange to mean?

4 A. Well, he was going to go directly to the bank wherever he
5 was, if he was in Europe or in Colorado or whatever, and he was
6 going to take it up with them personally for something that he
7 said -- this was on May the 5th for something he initiated on
8 April 13th, one, two, three weeks earlier, according to him.

9 But he's going to walk in there today and try to get
12:07 10 to the bottom of it, I guess. That's what he's saying.

11 Q. Do you remember conversations about you talking to a
12 government lawyer?

13 A. Conversations with Mr. Crater?

14 Q. Yes.

15 A. Yes, whether it was by text or email or telephone, one of
16 those.

17 MR. MOORE: Can we go to page 11. And at 4:28 p.m.

18 Q. You write, Just forwarded you a copy of an email from a
19 government attorney looking to interview me.

12:08 20 And he writes back, Okay, that's great. That's about
21 getting the CFTC thing off our back. It's fine.

22 You write, Would it be helpful to talk with him?

23 He writes, I'm asking now. Will get back to you in
24 that shortly.

25 And then he also says, Also, I can assure you the wire

1 is out. You will have it, John.

2 What's going on in this exchange?

3 A. Well, back on approximately April 24th, I got contacted by
4 a government attorney from the Commodities Futures Trading
5 Commission, I guess, and they were looking to find out --

6 MR. LOPEZ: Objection, your Honor.

7 THE COURT: Counsel, do you want to be heard?

8 MR. LOPEZ: Yes.

9 THE COURT: Okay.

12:09 10 Jurors, bear with us. I'm just going to hear counsel
11 at our virtual sidebar.

12 (Discussion at sidebar.)

13 THE COURT: Mr. Lopez.

14 MR. LOPEZ: Your Honor, my objection is that this
15 witness goes beyond the scope of the question and goes into
16 commentary that he hasn't been asked about which might be
17 prejudicial to my client. Since I don't know what he's going
18 to say because the question hasn't been asked about it, I'm at
19 a distinct disadvantage.

12:10 20 THE COURT: Mr. Moore, can you give me a proffer?

21 MR. MOORE: Yes, your Honor. I expect that he will
22 testify that he was contacted by the CFTC about --

23 Can you hear me, your Honor?

24 THE COURT: I can.

25 MR. MOORE: I expect that he will testify that the

1 CFTC contacted him about My Big Coin and that he then was
2 subpoenaed to testify and testified in front of the CFTC about
3 My Big Coin and also had conversations with Mr. Crater about
4 what his testimony would entail.

5 THE COURT: Mr. Lopez, any objections to the limits of
6 that testimony, particularly if I have Mr. Moore ask leading
7 questions?

8 MR. LOPEZ: No, so long as he also asks the question
9 what did Mr. Crater tell him and he responds that Mr. Crater
10 told him to tell the CFTC the truth.

11 THE COURT: Mr. Moore, agreed?

12 MR. MOORE: I will ask him what Mr. Crater told him,
13 but what Mr. -- I mean, I'm not sure Mr. Lopez's representation
14 will come out in the testimony. He's certainly free to ask him
15 about that on cross.

16 MR. LOPEZ: It's in the transcript.

17 THE COURT: Okay. Well, it might be a completeness
18 issue. I'll let the government elicit what -- well, we'll see
19 where the testimony goes, but, Mr. Moore, you should lead here.

12:11 20 Any reason why I should give a limiting instruction?

21 MR. LOPEZ: Your Honor, I think after the testimony
22 comes in, I think a limiting instruction would then be
23 appropriate.

24 THE COURT: Just to say it's another civil proceeding
25 and the testimony is only be considered in regards to the

1 charges in this case?

2 MR. LOPEZ: That's correct, your Honor.

3 MR. MOORE: No objection, your Honor.

4 THE COURT: Thank you.

5 (End of discussion at sidebar.)

6 THE COURT: Mr. Moore, you can ask the questions as I
7 indicated.

8 MR. MOORE: All right.

9 BY MR. MOORE:

12:12 10 Q. Do you remember having this text exchange with Mr. Crater?

11 A. Starting from the top of the page, yes, I do.

12 MR. MOORE: And then I'll ask for Exhibit 14B.

13 Q. Is this an email exchange between you and a government
14 attorney from the CFTC?

15 A. Just give me a second.

16 (Pause.)

17 A. Yes, sir, it is.

18 MR. MOORE: All right. And we can scroll to the top
19 of this.

12:13 20 Q. And after you received this email message, what did you do
21 to it? Or what did you do with it?

22 A. Shortly after I received it, I forwarded it to Mr. Crater.

23 MR. MOORE: Can we go to Exhibit 14F.

24 And if we could start at 3:17.

25 Q. So you -- Randall -- actually, let's go one email below

1 this.

2 So in this email exchange were you having a
3 conversation with Mr. Crater about complying with the CFTC
4 subpoena? Is that an accurate description?

5 A. Yes. There was a series of exchanges in very short order
6 that afternoon between me and Mr. Crater after I sent him the
7 inquiry that I got from the government attorney looking to
8 interview me, and then we went back and forth several times,
9 and you've picked one of them, I guess, here.

12:14 10 Q. And apart from the email, were you also issued a subpoena
11 to testify by the CFTC?

12 A. Yes. They came a relatively short time apart. I sent the
13 first one to Randall to get his comment on it and see what was
14 going on, and then very shortly later I got a second one where
15 they wanted to both interview me and take my testimony under
16 oath.

17 MR. MOORE: Now can we go up to the 3:17.

18 Q. And here it says, Randall -- specifically it says, In Re:
19 Certain Persons Engage in Fraud With Respect to Unlawful Retail
12:15 20 Commodity Transactions. I think it must be MBC or MBCP.

21 That's all I'm involved with. I am not worried about anything
22 I have done, and my knowledge is limited. Sadly, the time and
23 expense involved will be significant. As a lawyer in good
24 standing, I will respect the process and will do the best I can
25 to comply. What time are you arriving this evening?

1 If we go up above, Randall responds to you, The one
2 for oral statements is the one I was asking about. You got
3 another subpoena for you to make oral statements about MBC is
4 what I was asking.

5 And then above that you write, The oral subpoena was
6 titled with the language I sent you. There was no actual
7 mention of MBC.

8 And then in the top email or, sorry, the second-to-top
9 email Randall responds back, I'm still thinking you don't have
12:16 10 to answer for attorney-client, John. I'm waiting for the
11 feedback about this but we had many talks over the past few
12 years about the business and I think we're covered 100 percent
13 with protection. I don't see how we aren't.

14 What's going on in this exchange?

15 A. All right. So I had sent him the original inquiry from
16 the attorney from the government. I got immediately
17 thereafter, shortly thereafter, a notice to be deposed, and he
18 wanted some particulars about the oral testimony. And then he
19 suggested to me that as an attorney I should claim what is
12:16 20 called the attorney-client privilege and not have to answer
21 these discovery requests or be deposed. And that -- as you'll
22 see, as we move on, I told him that was ridiculous. I wasn't
23 his attorney, I was an investor, and that I intended to answer
24 any questions and disclose fully any materials and testify
25 truthfully under oath about anything they would ask me.

1 There was no attorney-client privilege between me or
2 Mr. Crater or the company -- any of his companies. I was never
3 asked to give advice to Mr. Crater or the companies. There was
4 no fee agreement between us. There was nothing of a
5 professional nature, which, you know, would trigger an
6 attorney-client privilege. So that was -- it just wasn't so
7 and I wasn't going to do it.

8 Q. And so at the very top you respond, How does this
9 attorney-client privilege apply to me as an investor?

12:18 10 A. Yes.

11 Q. What was your perception of this overall email exchange?

12 MR. LOPEZ: Your Honor --

13 THE COURT: Well, sustained as to that given our
14 discussion at sidebar.

15 MR. MOORE: Okay.

16 BY MR. MOORE:

17 Q. Did you understand Mr. Crater's email to you below where
18 he says --

19 MR. MOORE: Can we scroll down one --

12:18 20 Q. -- I think we're covered 100 percent with the protection.
21 What did you understand that to mean?

22 MR. LOPEZ: Objection.

23 THE COURT: Mr. Moore, being offered for the effect on
24 the listener?

25 MR. MOORE: Yes, your Honor.

1 THE COURT: So overruled on that basis.

2 A. So, again --

3 THE COURT: So here I think I'm going to give an
4 instruction, counsel.

5 So, jurors, as I said, there's sometimes occasions
6 that come up where evidence is offered for one particular
7 purpose but not any other.

8 Obviously one person can't attest to what's in the
9 mind of someone else, but there are certain statements that are
10 being offered about their effect on the listener, here the
11 witness. So it's being offered and admitted for that purpose.

12 BY MR. MOORE:

13 Q. And just to clarify my question -- what did you -- what,
14 if anything, did you understand was being communicated to you
15 by that, I think we're 100 percent covered with that
16 protection?

17 A. It was clear to me that he was encouraging me not to
18 cooperate with the government, not to testify, not to turn over
19 my records and do so by claiming the attorney-client privilege.
12:19 20 And he thought, he suggested --

21 MR. LOPEZ: Objection.

22 THE COURT: Sustained as to the continued answer.

23 MR. MOORE: Thank you.

24 BY MR. MOORE:

25 Q. Did you ever meet in person with the defendant?

1 A. I did one time finally, and that only occurred by
2 agreement after this whole investigation started triggered by
3 these emails that you have put in front of me.

4 Q. So you met with him after this email exchange?

5 A. Not until -- there were many occasions where we were going
6 to meet, I was trying to get more information --

7 MR. LOPEZ: Objection, your Honor.

8 THE COURT: Well, sustained in terms of responsiveness
9 to the question, Mr. Lopez?

12:20 10 MR. LOPEZ: Yes.

11 THE COURT: Okay.

12 So, Mr. Lynch, just listen and answer the question
13 asked.

14 THE WITNESS: Certainly, your Honor. I'm sorry.

15 THE COURT: Mr. Moore, can you ask the question again?

16 BY MR. MOORE:

17 Q. So you met with him for the first time in person after
18 this email exchange; is that correct?

19 A. That is correct.

12:20 20 Q. Do you remember where that meeting occurred?

21 A. I flew to South Carolina where Mr. Crater was at the time
22 working. I think he had family down there or something, and
23 the meeting took place at his lawyer's office in Charleston,
24 South Carolina. And the date was June 5, 2017.

25 Q. And did you guys discuss the investigation by the CFTC at

1 this meeting?

2 A. Yes.

3 Q. Did you guys discuss the need for you to testify?

4 A. That was brought up by Mr. Crater, yes.

5 Q. At the end of this meeting, did Randall Crater agree to
6 increase the number of coins that was held in your My Big Coin
7 account?

8 A. Well, one of the things we discussed was that my records
9 didn't reflect the total amount that I had invested in the
10 company, so I was trying to get that squared away, too,
11 particularly now when there were government inquiries and
12 investigations. My records were a mess I felt. So that was
13 one of the topics that we discussed. And as a result of these
14 discussions --

15 Q. Let me -- so as a result of the discussions, did he change
16 your account to what you thought the number of coins were?

17 A. That's exactly correct.

18 Q. And is the number of coins that you thought you should
19 have more than what was originally listed in your account
12:22 20 before this conversation?

21 A. Yes. I needed more coins to properly reflect the monies
22 that I had sent. So he was able to increase the amount of
23 coins to my satisfaction, to the right amount.

24 Q. And did you convert -- did you discuss transferring some
25 of your licenses from license purchases to coins at this

1 meeting?

2 A. Yes.

3 Q. And then did Randall Crater tell you that he would update
4 the account to show the appropriate amount of coins?

5 A. He did.

6 Q. And did that happen within a two-week time period?

7 A. I'd say it happened within the week, approximately a week
8 or a little longer or shorter. I think it happened in a couple
9 of segments, but within a week certainly.

12:23 10 Q. All the previous times you had asked Randall Crater to
11 update your account, did he update it as quickly as he did
12 after this in-person meeting?

13 A. Absolutely not. This took me years to get this done, and
14 it only happened after I got these documents from the
15 government and flew to his lawyer's office in North Carolina --
16 South Carolina, Charleston, South Carolina.

17 Q. During this meeting did Randall Crater tell you that My
18 Big Coin would be available on a series of exchanges shortly
19 after this meeting?

12:23 20 A. Yes. That was something he was telling me, yes. And
21 continued to tell me -- that was in June of -- June 5, 2017,
22 and he continued to tell me that through the date of my
23 deposition, which was approximately 30 or 35 days later here in
24 Boston. In fact, when I walked into the deposition, I was in
25 touch with him and Mr. Gillespie. They were telling me that

1 we're going -- the exchanges are going to light up at any
2 moment and there will be active trading there.

3 THE COURT: Counsel, Mr. Lopez, did you want a
4 limiting instruction at this point in regards to the subject
5 matter?

6 MR. LOPEZ: Yes, your Honor.

7 THE COURT: In regards to the other proceeding?

8 MR. LOPEZ: Yes.

9 THE COURT: Okay. So, jurors, you've heard reference
10 in the last series of questions to an investigation by the
11 CFTC, which you've heard I think earlier referred to as a
12 federal agency. I note that the statements being offered here
13 are only being offered for the purposes of the charges against
14 Mr. Crater in this case.

15 To the extent that there was any other agency
16 proceeding, a civil proceeding, has no bearing on the guilt or
17 innocence of Mr. Crater. The statements are just being offered
18 by the government as part of their case in chief about the
19 present charges against Mr. Crater.

12:25 20 Okay. Thank you.

21 Mr. Moore.

22 BY MR. MOORE:

23 Q. And during this conversation in South Carolina, did
24 Mr. Crater also tell you something to the extent that you have
25 nothing to be afraid of and neither does he?

1 MR. LOPEZ: Objection.

2 THE COURT: I assuming form, counsel?

3 MR. LOPEZ: Yes.

4 THE COURT: Sustained as to form, counsel.

5 MR. MOORE: Okay.

6 BY MR. MOORE:

7 Q. What did Mr. Crater tell you as to your testimony in front
8 of the CFTC?

9 A. Well, first -- it was in segments, and regarding testimony
10 before the CFTC, he tried to persuade me not to testify and to
11 assert the attorney-client privilege, which we discussed
12 before.

13 When I was adamant in saying I was an attorney in good
14 standing, I was going to cooperate fully, answer all of the
15 questions, I had done nothing wrong, I was an investor, and I
16 was not going to impeding the investigation in any way. When
17 he realized that that was it, he said, Well, I haven't done
18 anything wrong either. And he said, So if you feel that way,
19 just go ahead and testify and tell them what you know and tell
12:26 20 them the truth.

21 And so he went from trying to encourage me not to do
22 it. I was adamant that I was going to do it. And then, you
23 know, he made those comments.

24 Q. Did you testify in front of the CFTC?

25 A. I did.

1 Q. And at the beginning of that testimony did you still
2 believe My Big Coin was a legitimate business?

3 A. Yes. I had invested so much money in the business. Even
4 though I was getting the runaround on certain things that
5 you've gone over, I was hoping that there would be some success
6 here and I'd get my money out and maybe I'd even make a profit
7 for myself, my family and my friends that had invested in this.

8 So when I walked into the deposition, I was hopeful
9 that it would ultimately lead to something. Then we got into
10 the deposition, and there was some changes.

11 Q. At some point during your testimony did your amount of
12 faith in My Big Coin start to decrease?

13 A. No question, yes.

14 Q. What made you start to finally lose faith in My Big Coin?

15 A. Well, during the deposition -- it was a long deposition.
16 We started first thing in the morning at 9:00 or thereabouts
17 and we went until 5:30 or 6:00. But somewhere after the
18 midpoint or at the midpoint, in that period of time, there were
19 two attorneys from the government agency questioning me, and
12:28 20 one would start and somebody else would pick something up and
21 it would go back and forth.

22 But it was revealed to me how the money --

23 MR. LOPEZ: Objection.

24 THE COURT: Sustained here. Counsel, given our
25 sidebar conversation, counsel. So unless you want to take this

1 in baby steps for the benefit of the Court, you should move on.

2 MR. MOORE: Okay.

3 BY MR. MOORE:

4 Q. During your testimony in front of the CFTC, were you
5 confronted with facts about My Big Coin?

6 MR. LOPEZ: Objection.

7 THE COURT: Well, sustained as to that.

8 BY MR. MOORE:

9 Q. Do you currently believe My Big Coin is a legitimate
10 company?
12:29

11 A. I believe it is not -- isn't and wasn't ever a legitimate
12 company.

13 Q. What made you come to that realization?

14 A. Well, a number of things, but specifically with respect to
15 my deposition before the CFTC --

16 Q. Well, just not about your deposition.

17 Just sitting here today, what makes you realize that
18 My Big Coin is not the investment that you thought it was?

19 MR. LOPEZ: Objection. Is he asking an opinion, your
12:29 20 Honor?

21 THE COURT: Well, sustained as to this, counsel.

22 You can rephrase to ask other questions.

23 BY MR. MOORE:

24 Q. Did you ever receive stock shares in My Big Coin?

25 A. Never.

1 MR. MOORE: Can we bring up Exhibit 14G.

2 Q. Is November 5, 2017 after your testimony in front of the
3 CFTC?

4 A. Yes, it's about five months later.

5 Q. All right. Did you reach out in this email to Mr. Crater
6 about My Big Coin?

7 A. Yes, I did.

8 Q. Here you say, MBC is no longer on Nova or anywhere else
9 that I am aware. What is the timing of getting on an exchange
10 and the start of trading?

11 Do you see that?

12 A. I do.

13 Q. What's going on in this exchange?

14 A. As I said earlier, I was waiting to be able to sell some
15 of my coins -- some or all of my coins on an exchange. The MBC
16 exchange was frozen or closed and they were trying to get us
17 onto other exchanges using also the credit card and the wallet
18 and that system I described before. And apparently at one
19 point they must have been listed on Nova, N-o-v-a, which I take
12:31 20 to be an exchange, but it was no longer listed. And I'm asking
21 of Mr. Crater, once again, what's the timing of getting on an
22 exchange and the start of trading so I could get some money out
23 of my investment or sell it.

24 Q. Was your understanding that My Big Coin was backed by gold
25 important in your decision to purchase My Big Coin?

1 A. Critical.

2 Q. Was your understanding that My Big Coin was backed by oil
3 important to your purchase of My Big Coin?

4 A. Very much so, yes.

5 Q. Was your understanding that My Big Coin could be traded on
6 an exchange important to your decision to purchase My Big Coin?

7 A. Yes, that way I could know the value of -- the approximate
8 value of each coin.

9 Q. Was it important to you that the transactions listed on
10 the exchange, the actual transactions that occurred on the
11 exchange?

12 A. Well, yes, of course.

13 Q. Was it important to you that My Big Coin had a partnership
14 with MasterCard?

15 A. That gave me a great deal of comfort to know he was
16 working with MasterCard, a very reputable credit card company,
17 yes.

18 Q. Did it also become important to you that you could access
19 your funds through this My Big Coin MasterCard?

12:32 20 A. Yes.

21 Q. Did anyone ever tell you that the money you were sending
22 for My Big Coins -- did Randall Crater ever tell you that the
23 money you sent to him for My Big Coin would be spent on
24 jewelry?

25 A. Absolutely not. I was never told that.

1 Q. Did Randall Crater ever tell you that the money you were
2 sending for My Big Coin would be spent on artwork?

3 A. No, never.

4 Q. Did he ever tell you it would be spent at an auction
5 house?

6 A. Never.

7 Q. Did you expect that when you sent money to Randall Crater
8 that he would keep that money and use it on his personal
9 expenses?

12:33 10 A. Those were not my expectations at all.

11 Q. When you invested shares in My Big Coin, did you have an
12 expectation that that money would be spent on Randall Crater's
13 personal expenses?

14 A. Absolutely not.

15 Q. For all of the previous -- the gold, the backed by oil,
16 traded on an exchange, did Randall Crater tell you those were
17 things that would happen in the future when he told you about
18 those, or did he tell you it was things that were already
19 occurring?

12:33 20 A. Are you talking about the exchange, listed on exchanges,
21 is that the question?

22 Q. I'll go one by one.

23 When he told you it was backed by gold, did he tell
24 you that that it was currently backed by gold or will be backed
25 by gold?

1 A. Currently, it already existed when I got involved and was
2 investing. It was preexisting fund of gold bullion.

3 Q. When he said "backed by oil," did he say it's currently
4 backed by oil or one day in the future it will be backed by
5 oil?

6 A. Currently.

7 Q. When he said that it could be traded on an exchange, did
8 he say currently traded on an exchange or hopefully one day?

9 A. No, that it was being actively traded, and that's how you
10 determine the price. It was an internal exchange, not an
11 external exchange.

12 Q. Did he say that he hoped to one day have an agreement with
13 MasterCard, or did he say that he currently had an agreement
14 with MasterCard?

15 A. Currently had an agreement with MasterCard.

16 Q. Over the course of your investment in My Big Coin,
17 approximately how much money did you send to Randall Crater?

18 A. Well, on behalf of myself and my family and -- and my
19 family, I had a total in there of more than \$5.6 million. Some
12:34 20 of it was, again, for the coins and some of it for the various
21 licenses, but it was all denominated in coins.

22 Q. And have you received any of that money back?

23 A. Not one penny.

24 MR. MOORE: Thank you.

25 Nothing further, your Honor.

1 THE COURT: Thank you.

2 Mr. Lopez, cross-examination.

3 MR. LOPEZ: Thank you, your Honor.

4 THE COURT: And as I said, you can do it from there as
5 long as you keep your voice up for the jury.

6 MR. LOPEZ: I think for the first part of this I think
7 I'd rather --

8 THE COURT: Okay, sure.

9 CROSS-EXAMINATION

10 BY MR. LOPEZ:

11 Q. Good afternoon, Mr. Lynch.

12 A. Good afternoon, sir.

13 Q. My name is Scott Lopez.

14 A. Yes, sir.

15 Q. I represent Mr. Crater.

16 A. Yes.

17 Q. My private investigator tried to contact you a number of
18 times to speak with you. Do you recall that?

19 A. He never called me that I'm aware of. What's his name?

12:35 20 Q. John Cinotti.

21 A. Never that I know of.

22 Q. Never left you messages?

23 A. Nothing that I know of.

24 Q. He never left you voicemails?

25 A. I don't remember any, no.

1 What did he call?

2 Q. He's been calling for months, sir.

3 A. What, did he call my office or --

4 Q. He called your office, yes.

5 A. I don't remember that.

6 Q. In any event, you haven't talked to him?

7 A. Not a bit.

8 Q. Now, I want to take you back to the beginning of My Big
9 Coin, when you first became aware of My Big Coin.

12:36 10 A. Yes.

11 Q. What did you know about cryptocurrencies at that point in
12 time?

13 A. Well, what I -- I was certainly no expert, but, you know,
14 I read the newspapers and the financial newspapers and I was
15 aware of what was going on with Bitcoin, and that was of
16 interest to me.

17 Q. And you didn't learn about My Big Coin from Mr. Crater,
18 correct?

19 A. Well, I did at some stage, but initially, the very first
12:36 20 time, if that's what you mean, no, it was through Mr. Michael
21 Kruger, who worked for Mr. Crater.

22 Q. Well, that's what you thought. You thought he worked for
23 Mr. Crater?

24 A. Well, he told me and he showed me a card that said he
25 worked for My Big Coin and Mr. Crater -- well, the card didn't

1 say that he worked for Randall Crater. It said he worked for
2 My Big Coin.

3 Q. Do you know who the chief executive officer of My Big Coin
4 was?

5 A. I knew Mr. Crater was the creator, and later I learned on
6 various correspondence there were a couple of MBC companies, My
7 Big Coin and My Big Coin Pay, and I saw the name, a name other
8 than Mr. Crater's listed as the president, I believe.

9 Q. Does the name John "Ro-shay" ring a bell with you?

12:37 10 A. I thought it was John Roche. I grew up in Dorchester,
11 R-o-c-h-e would be Roche, but if you say "Ro-shay," it's
12 "Ro-shay."

13 Q. Fair enough. I stand corrected.

14 Did you do any due diligence on Mr. Roche or
15 Mr. "Ro-shay"?

16 A. I didn't learn about Mr. Roche until I was downstream. My
17 involvement was either with -- at the beginning with
18 Mr. Kruger, as I've said, and then Mr. Crater and his
19 aide-de-camp or administrative person, Mr. Mark Gillespie.

12:38 20 Q. Now, where did you meet Mr. Kruger?

21 A. I met him in Boston. I was out to dinner one night with
22 my brother and we were going to a lecture, and we were sitting
23 at the bar having dinner and we were going to a lecture at
24 Boston Symphony Hall. I had tickets for a lecture series at
25 Symphony Hall called the Boston Speaker Series.

1 Q. He you known Mr. Kruger prior to that first meeting?

2 A. No.

3 Q. And did you have an understanding as to why he was in
4 Boston?

5 A. He told me why he was in Boston.

6 Q. And what did he tell you?

7 A. He told me that he was attending a convention next door at
8 the Hynes Auditorium and it had to do with medical marijuana
9 and that he was working with My Big Coin and he was trying to
10 solicit business opportunities in the medical marijuana field
11 for use in My Big Coin -- use -- for medical marijuana people
12 to use My Big Coin.

13 Q. So he told you he was in Boston trying to find customers
14 for My Big Coin in the medical marijuana industry?

15 A. I think that's fair, yes.

16 Q. And did that intrigue you?

17 A. I don't know if "intrigue" is the word, but it was of
18 interest certainly.

19 Q. And what was of interest to you?

12:40 20 A. Well, I forget, you know, step by step which was first in
21 the sequence. It was eight years ago. But the fact that he
22 was into cryptocurrency, he likened it to Bitcoin, he felt very
23 enthused about it, and he was trying to develop business for
24 it, as you suggested. So that was of interest to me.

25 Q. A few minutes ago you were very definitive about why you

1 entered into My Big Coin. What I'm trying to get at is, what
2 did you know and when did you know it.

3 So you met Mr. Kruger. He told you that he was there
4 at a medical marijuana conference.

5 A. Yes.

6 Q. He told you that he was trying to figure out how
7 cryptocurrency could be used in the medical marijuana business.

8 A. I don't think he told me he was trying to figure out how
9 it could be used. I don't think that's a --

12:41 10 Q. Well, do you know whether or not My Big Coin existed at
11 that point in time?

12 A. In 2014?

13 Q. In early 2014.

14 A. Well, I thought there was a company -- I was told there
15 was a company My Big Coin and that was the business of the
16 company by Mr. Kruger.

17 Q. And you were told by Mr. Kruger.

18 And upon learning that information, what due diligence
19 did you do on My Big Coin, Inc.?

12:41 20 A. Well, I finished my dinner and I went to the lecture. I
21 mean, I didn't do anything that day.

22 Q. Okay. At some point did Mr. Kruger contact you again or
23 did you contact him?

24 A. Always the contact was from outside to me.

25 Q. Did he call you at his office?

1 A. Did he call me at --

2 Q. Did he call you at your office?

3 A. Oh, at my office. I'm not sure. I think he may have
4 contacted me on my cell phone or by text or by email or
5 something. I'm not sure.

6 Q. Is it fair to say at that first meeting you exchanged
7 phone numbers?

8 A. Very possibly.

9 Q. How long after he met you --

12:42 10 A. He gave me his card. So I had his number, and I may well
11 have given him my number. That's quite possible.

12 Q. Do you remember what month you met him?

13 A. Yes, it was at the very end of March, the first day or so
14 of April of 2014, and I remember that date because of an event
15 that happened that week.

16 Q. You're referring to the event with the firemen?

17 A. Yes, there was a very serious fire not far from the
18 restaurant we were having dinner and two firemen died in the
19 flames, and there was a funeral that day, I think it was in
12:42 20 West Roxbury or Watertown. That's where the homes of each of
21 the firefighters were, and the firemen returned -- there was a
22 fire station directly across the street from the restaurant
23 where we were in the Prudential Center and there were literally
24 dozens of firemen in and around the firehouse and a number of
25 them came into the restaurant. So that was in my mind at the

1 time, yes, that's how I knew.

2 Q. Okay. So you meet Mr. Kruger.

3 THE COURT: I'm sorry, Mr. Lopez, can you move the
4 microphone a little closer to you?

5 Thank you.

6 BY MR. LOPEZ:

7 Q. So you meet Mr. Kruger, and was Mr. Kruger from this area?

8 A. No, he was from the West Coast. I think he was from the
9 West Coast, either Arizona or California or both. I think that
10 that's where --

12:43

11 Q. By the way, before you came here today, did you review
12 your testimony in the CFTC matter?

13 A. I did, I read my deposition.

14 Q. You read that carefully to refresh your recollection of
15 what you said?

16 A. Yeah, I was deposed five years ago, and the meeting with
17 Mr. Kruger was eight years ago. So I did look at my
18 deposition, yes.

19 Q. And you were represented by counsel at that deposition?

12:44

20 A. Yes, I was.

21 Q. And your counsel is in the courtroom here today?

22 A. Yes, he is, he's sitting there.

23 Q. And you sat down with the U.S. Attorney's Office on a
24 number of occasions to prepare for your testimony here today?

25 A. There were several meetings at different times with the

1 U.S. Attorney, and the pandemic happened in the middle of all
2 of that. So I had one set of people I met with either from the
3 U.S. Attorney's Office or the Justice Department back several
4 years ago, three, four years ago. And then during the pandemic
5 I think things got delayed, I guess, and the people or the
6 attorney that I met with originally from either the Justice
7 Department or the U.S. Attorney's Office left the U.S.
8 Attorney's Office and went someplace else, into private
9 practice, I guess. So then post-pandemic or as the pandemic
12:45 10 was winding down, I had perhaps another meeting, and then more
11 recently, in the last week or so, another meeting, something
12 like that.

13 Q. In any event, you were prepared for your testimony here
14 today.

15 A. I wouldn't say "prepared." I was organized in a sense.
16 There was so much material here, so many texts, so much product
17 in the discovery process that it was voluminous. There was a
18 lot of it.

19 I think my sense was that the U.S. Attorneys, you
12:46 20 know, wanted to put it in some sort of order. They never told
21 me what to say other than to tell the truth. It was just more
22 of an organizational thing than instructing me what to say or
23 something like that.

24 Q. I didn't imply that they instructed --

25 A. Well, I just want to be clear on it, that's all.

1 Q. So you met Mr. Kruger in late March, early April of 2014.

2 A. That is correct.

3 Q. And you never met Mr. Kruger before?

4 A. That is correct also.

5 Q. And at that time you hadn't met Mr. Crater.

6 A. Not at that moment, no, that's true.

7 Q. And you heard about My Big Coin?

8 A. Correct.

9 Q. And you heard about My Big Coin from Mr. Kruger?

12:47 10 A. Yes.

11 Q. Did you do anything to check the background of Mr. Kruger?

12 A. No. He gave me his card, and I guess I was more concerned
13 about My Big Coin than I was about Mr. Kruger.

14 Q. I think you said earlier you're a lawyer?

15 A. I am a lawyer, yes.

16 Q. I think you're a real estate lawyer?

17 A. I do litigation that's related to real estate. When I was
18 a younger person, I did more of a wider range of litigation,
19 that's correct.

12:47 20 Q. And lawyers like to document transactions, would you
21 agree?

22 A. Some lawyers document transactions. I was not a
23 transactional lawyer.

24 Q. But you're aware that when transactions occur,
25 transactional lawyers create documentation to document the

1 transaction.

2 A. Well, again, it depends on what field you're in.

3 If you're in commercial real estate, there's no
4 question that there are mortgage documents, there are deeds,
5 there are purchase and sale agreements. There's a lot of
6 documentation.

7 If you're doing an estate plan, you're an estate
8 planning attorney, yes, there would be a lot of paperwork, yes,
9 that's true.

12:48 10 Q. Before you made your first purchase of My Big Coin coins,
11 what, if any, due diligence did you do on My Big Coin?

12 A. I would say that I read about the cryptocurrency field and
13 that I looked at the promotional material that was available
14 about My Big Coin, My Big Coin, Inc., that type of thing, and I
15 learned about the gold, the oil, at some point the insurance,
16 and the affiliation with MasterCard. I know I called the
17 provider of the gold and oil, whom I thought was Harmonie
18 Corporation, and, you know, just general reading and things
19 like that is what I did.

12:49 20 Q. So if I understand your testimony, you did all of that
21 before your first purchase?

22 A. I don't know the day that I called Harmonie. I don't have
23 that date, but I did those types of things before I started
24 making investments.

25 And I started off slowly, you know, not putting the

1 great numbers into it that I did.

2 Q. But, sir, to the best of your memory --

3 A. Yes.

4 Q. -- what exactly did you do to verify My Big Coin coins
5 prior to making your first purchase?

6 A. Well, I think I just explained that. Do you want me to go
7 through it again?

8 Q. So -- well, you spoke to Harmonie before your first
9 purchase?

12:50 10 A. I thought I was clear about that when I said I spoke to
11 Harmonie but I'm not sure as I sit here the date that
12 conversation took place with Harmonie. But I did --

13 Q. Well, then what did you do to confirm the gold?

14 A. I was very impressed by the promotional material furnished
15 by --

16 Q. Sir, the question is: What did you personally do to
17 verify that there was gold backing this company before you made
18 your first purchase?

19 A. No, I understand your question. I'm just trying to get
12:50 20 the answer out.

21 I relied chiefly on the promotional material furnished
22 by My Big Coin material about Randall Crater, about the
23 development of it. I had spoken with Mr. Kruger,
24 Mr. Gillespie, at some point Mr. Crater, and also had made that
25 inquiry about My Big Coin.

1 I did not invest all of my funds on day one. It was a
2 gradual process, and I was told --

3 MR. LOPEZ: Objection. I didn't ask what you were
4 told.

5 THE WITNESS: Okay. Sorry.

6 THE COURT: Sustained as to just this last part. The
7 rest will stand.

8 Mr. Lopez.

9 MR. LOPEZ: Yes, your Honor, I'll move to strike the
10 last part.

11 THE COURT: Right. So, yes, just the last part of the
12 start of the sentence.

13 BY MR. LOPEZ:

14 Q. You said promotional materials. Did Mr. Kruger give you
15 promotional materials on My Big Coin?

16 A. No. I looked at the My Big Coin site. I had some
17 direction from Mr. Kruger about what was going on with My Big
18 Coin and what kind of an investment it was, and I read the
19 material that was publicly available on the internet, I guess,
12:52 20 I call it promotional material, about MBC, background material,
21 promotional material, that type of thing.

22 Q. So in early April of 2014 --

23 A. Yes.

24 Q. -- is it your testimony that you went to the My Big Coin
25 website and the My Big Coin website said it was backed by gold?

1 A. It's right on there, yes, backed by gold.

2 Q. In 2014?

3 A. Yeah, right from the get-go.

4 Q. Okay. Are you certain about that?

5 A. I -- yes, that's my understanding, that it was backed by
6 gold. I was told that by Mr. Kruger, by Mr. Gillespie, by
7 Mr. Crater, and it was on materials. MasterCard was on the
8 materials. And backed by gold was a big statement and a big
9 distinguisher or differentiator from other types of

12:53 10 cryptocurrency according to the management people that I just
11 identified.

12 Q. So, to be clear, it's your testimony that you were told it
13 was backed by gold prior to your first purchase.

14 A. Yeah. Yes.

15 Q. The statement "backed by gold" was on the website?

16 A. That's my recollection.

17 Q. But you don't --

18 A. It was on promotional material that I accessed somehow,
19 and I -- that was a search that I did and that's what I found
12:54 20 out.

21 Q. Did you determine who controlled the website?

22 A. Well, I was told that Mr. Crater had created the software
23 that underlaid My Big Coin and My Big Coin Pay, that that was
24 his area of expertise. I looked up his information about
25 Greyshore, what he did, and the others told me a lot about

1 Mr. Crater, and at some point I had some discussions with
2 Mr. Crater. So --

3 Q. I'm focusing on before your first investment.

4 I think you told us you didn't know who the president
5 of My Big Coin was. So I take it you didn't search the
6 Secretary of State's office in Nevada to determine where the
7 articles of incorporation were filed and who was the president.

8 A. I -- at some point, and I don't know whether it was day
9 one, I did look at the Secretary of State's office in Nevada --

12:55 10 Q. Sir, sir --

11 A. What, what --

12 Q. I'm trying to focus you on before your first purchase. I
13 don't care what you did afterwards. I'll ask those questions
14 later.

15 Before your first purchase did you search the
16 Secretary of State's office to determine who was the owner and
17 operator of My Big Coin?

18 A. I don't remember what day I searched the Secretary of
19 State's office in Nevada, but I did. And I can't say if it was
12:55 20 immediately before the purchase, slightly after the first, the
21 initial purchase, or what -- it was more than eight years ago.
22 I just don't remember clearly now. It's something I did do,
23 but I don't remember what day I did it. But it was at the
24 start of my investments.

25 I can't do any better than that, I'm sorry.

1 Q. Now, I think you testified earlier that Mr. Crater never
2 provided you with any documentation showing that it was backed
3 by gold prior to your first purchase or at any time, for that
4 matter.

5 A. I don't remember saying that Mr. Crater didn't show me
6 documentation prior to my first purchase, but I do remember
7 testifying that -- I do remember testifying that it was, I
8 felt, according -- it was my understanding, and I was told that
9 it was backed by gold. I didn't get certificates or a
10 statement, a written statement from Mr. Crater that it was
11 backed by gold, that's true.

12 Q. Well, Mr. Moore asked you if you ever received any
13 documentation from Mr. Crater that proved to you that it was
14 backed by gold, and I believe you answered, No.

15 A. Well, that would be true.

16 Q. Now, going back --

17 A. If I did say that, yes, that is true.

18 Q. Going back again to early April, before your first
19 purchase, did you ask Mr. Crater for any documentation that
20 demonstrated it was backed by gold?

21 A. I don't recall doing so. I don't think I did.

22 Q. Do you recall when your first purchase was?

23 A. It was sometime in April of 2014.

24 Q. Does April 8th ring a bell?

25 A. Could well be.

1 Q. And the amount was \$200,000?

2 A. I don't know for sure as I'm sitting here with you what
3 the amount was.

4 Q. Would you agree with me that when you made that first
5 purchase, you had done nothing to verify that it was backed by
6 gold?

7 A. Did I do nothing to verify. If you're talking about
8 written documentation, I didn't have any, that's true. If
9 that's what you mean.

12:58 10 Q. And you didn't ask for any either, did you?

11 A. Well, I had the benefit of my discussions with Mr. Kruger,
12 Mr. Gillespie, Mr. Crater, and seeing the materials that I
13 discussed before, the public documents, the promotional
14 documents, I looked at that, and I -- for better or worse, I
15 put my trust in these people and did that. That's what I did.

16 Q. You relied on someone you met a couple of weeks before?

17 A. I did.

18 Q. In a bar?

19 A. In a restaurant, yes, in the bar section of a restaurant.
12:58 20 I was having dinner. It's a nice restaurant.

21 Q. You relied on, you claim, what Mr. Crater told you having
22 never met him?

23 A. I didn't meet Mr. Crater --

24 Q. Not 2007. I'm talking 2014.

25 A. No, I understand what you're talking about. I was about

1 to say I never met him in person until 2017. And I tried
2 mightily to meet him on many occasions but he refused to meet
3 with me.

4 Q. And you relied upon, according to you, what Mr. Gillespie
5 told you, and you had never met Mr. Gillespie in person?

6 A. All this is true. I put my trust in these people, that's
7 what I did, and I did the types of things that we've described
8 and I testified to you, that's what I did. Should I have done
9 more? Well, in retrospect obviously I should have. The whole
12:59 10 thing was ridiculous.

11 Q. When you made your first purchase, do you know, as you sit
12 here today, whether My Big Coin was in fact backed by gold?

13 A. I believe it was. That's my belief then and now.

14 Q. So --

15 A. That's what I was told. Did I see the gold? No, I did
16 not.

17 MR. LOPEZ: Your Honor, I think this is a good time to
18 stop.

19 THE COURT: Okay.

12:59 20 Sir, you can step down. We're going to have to
21 continue in the morning.

22 THE WITNESS: What time, your Honor?

23 THE COURT: 9:00 a.m., if you could be here a little
24 before then. Thank you.

25 THE WITNESS: Sure.

1 THE COURT: Jurors, as I said, today we're going to
2 end at 1:00. So I'm going to let you go for the day.

3 Just give me one moment.

4 (Discussion off the record.)

5 THE COURT: And tomorrow's schedule, just so you know,
6 will be until 3:30. So you should be here a little before
7 9:00. We'll take our mid-morning break, we'll take a lunch
8 break 1:00 to 2:00, and then we'll resume from 2:00 to 3:30.

9 Jurors, as you go about the rest of your day, just
01:00 10 keep my cautionary instructions in mind. Don't talk to each
11 other or anyone else about this case, keep an open mind and
12 don't do any outside research and we'll see you tomorrow.
13 Again, if you can be here a little before 9:00, we'll get
14 started promptly. Thank you.

15 THE CLERK: All rise.

16 (Jury left the courtroom.)

17 THE COURT: And, Mr. Lynch, you can step down. Thank
18 you.

19 MR. MARKHAM: If we could just have an admonishment to
01:01 20 the witness on the record to not discuss his testimony. I
21 don't know if you did that already.

22 THE COURT: No, it's not my practice. I assume
23 witnesses know that.

24 Is that fair?

25 THE WITNESS: Very fair, your Honor.

1 I have one question, if I may. And you might not have
2 the answer to this, Your Honor. I have meetings tomorrow at
3 2:00, and I'm wondering if there's any way of knowing if we
4 might be finished.

5 THE COURT: Certainly we should be done before that
6 with Mr. Lynch's testimony; is that fair?

7 MR. LOPEZ: I anticipate we'll be done before that.

8 THE COURT: Okay. I think that's fair.

9 THE WITNESS: Thank you.

01:02 10 THE COURT: Thank you. You're excused for the day.
11 Everyone can be seated.

12 Counsel, anything else before we break?

13 MR. MARKHAM: Nothing from the government, your Honor.

14 THE COURT: And just in terms of who's coming up after
15 Mr. Lynch, is it the same -- give me a moment -- is it still
16 Mr. Byrd, Mr. Desa, Mr. Mendiola -- I may be mispronouncing
17 that -- Mr. Bell? Is that still the same order?

18 MR. MARKHAM: Those will be the witnesses. The order
19 may change, particularly if the defense goes to 2:00 tomorrow
01:02 20 on cross-examination of this witness because we just can't get
21 through certain witnesses in the remaining time. Those will be
22 the four witnesses, yes, your Honor.

23 THE COURT: And the same disputed exhibits?

24 MR. MARKHAM: Yes, your Honor. We're happy to address
25 those now.

1 THE COURT: Sure. I think it's just as to Mr. Bell,
2 which was S, T, and U.

3 MR. MARKHAM: No -- well, I think, your Honor, the S,
4 T, and U are probably the easier ones for Mr. Bell because it's
5 simply authentication, as I understand. He'll just have to get
6 up there and say those are what he says they are.

7 I think the main exhibits that are at issue is with
8 Mr. Desa, which is the Facebook, Twitter, and YouTube.

9 THE COURT: Oh, yes, I do have a notation of that.
01:03 10 Hold on. And I had previously looked at that.

11 Counsel, given the testimony so far, does the
12 government have an update on its position or anything it wanted
13 to add?

14 MR. MARKHAM: Your Honor, I'm happy to lay out why
15 each of these individual ones come in. We did brief this in
16 the trial brief, and what are now already admitted as exhibits
17 show, for instance, with Twitter, Randall Crater emailing a
18 customer the link to the Twitter feed.

19 What's also admitted now into evidence is the
01:04 20 defendant's LinkedIn page, which is stipulated to as authentic,
21 that has links to the Facebook and the Twitter pages as well,
22 and to the My Big Coin website.

23 And also what's now admitted into evidence are website
24 pages from the My Big Coin website where it has the video
25 that's in Exhibit C, that's the YouTube video, as well as an

1 email in the defendant's email inbox with that YouTube video.

2 So we've been able -- through the evidence that's
3 already before the Court, this has all been connected to My Big
4 Coin and specifically to the defendant in certain instances.
5 To be clear, the government's position is that we don't have to
6 do that, but we have been able to do that in each of these
7 three instances.

8 And I would also note that the statements being made
9 in the Twitter, Facebook, and the YouTube video are the same
01:05 10 statements that you're hearing were made by the defendant
11 himself and on the LinkedIn page.

12 So I guess that's not really a proffer, your Honor,
13 because all that evidence is already admitted, except for these
14 last three, but I think that's a good summary of where we're
15 at.

16 THE COURT: Thank you.

17 Mr. Lopez, do you want to be heard any further on
18 these?

19 MR. LOPEZ: Your Honor, it's the same position. Just
01:05 20 because he has a link doesn't mean he controls the content and
21 doesn't mean that he's promoting the content. It seems to me
22 that they should bring in the person who actually controlled it
23 and was responsible for the content.

24 THE COURT: Counsel, I will look again at the admitted
25 exhibits. I think we're further down that road, Mr. Lopez,

1 just even based on Mr. Lynch's testimony and the exhibits that
2 were published to the jury today in terms of Mr. Crater's role.

3 I understand the argument. It may go more to weight
4 as opposed to admissibility, but I'll consider that.

5 MR. LOPEZ: Thank you.

6 THE COURT: Anything else on the government's side?

7 MR. MARKHAM: No, your Honor. Just so the Court's
8 aware, Mr. Desa may be the first witness after Mr. Lynch. So
9 we may move him up one, which means these exhibits --

01:06 10 THE COURT: Before Mr. Byrd, sure.

11 MR. MARKHAM: If they're not going come in, we would
12 ask the Court the opportunity to fully brief that issue to make
13 our position understood because that's going to be --

14 THE COURT: I understand the argument.

15 MR. MARKHAM: Okay. Thank you, your Honor.

16 THE COURT: I'll decide if I agree based on where we
17 are, but I think it's been fully briefed for what that's worth.

18 Counsel, anything else on Mr. Crater's side?

19 MR. LOPEZ: Your Honor, I think I'll attempt to
01:06 20 introduce -- I think it's Exhibit M, Contested Exhibit M
21 through Mr. Lynch.

22 THE COURT: Just give me a second. That's on your
23 list, I guess?

24 MR. LOPEZ: Yes, it's the Harmonie webpage which the
25 My Big Coin web page had a link to, and since he's already --

1 THE COURT: So I'm just looking -- I'm looking at
2 Docket 152, M1 and M2, or do you mean M on the government's
3 list?

4 MR. LOPEZ: I think it's M1, M2, and M3.

5 MR. MARKHAM: Well, your Honor, I think Docket No. 163
6 is the updated exhibit list.

7 THE COURT: Yeah, but I guess I was confused
8 because -- hold on.

9 Yes. So is the list I have as Docket 152, am I just
01:07 10 not looking at that anymore? Meaning, is there -- is
11 Mr. Lopez's proposed exhibits that the government doesn't agree
12 to now on 163?

13 MR. MARKHAM: Yes, your Honor, 163 -- and that's why I
14 came in late, your Honor, we got together and made it joint.

15 THE COURT: Got it, so I will just look at this one.

16 Yes, I see that, Mr. Lopez.

17 MR. LOPEZ: And since he's indicated that he did talk
18 to Harmonie and there's a link from My Big Coin to Harmonie, I
19 think I'll try to get them admitted if, in fact, he saw them --

01:08 20 THE COURT: Okay.

21 MR. LOPEZ: -- in part of his due diligence.

22 THE COURT: What's the government's position on that,
23 given the testimony at this point from Mr. Lynch?

24 MR. MARKHAM: Yes, your Honor. I would note that the
25 defense's position is that anything that someone didn't

1 personally write doesn't come into evidence when it's on a
2 website. So I don't understand how this would come in through
3 Mr. Lynch based on the defense's position --

4 THE COURT: Putting that aside.

5 MR. MARKHAM: Putting that aside, I completely
6 disagree with that notion. The government would object on
7 hearsay and relevance grounds.

8 So hearsay, I don't know why this is coming in, except
9 for the truth of the matter asserted on those website pages.

01:08 10 MR. LOPEZ: It's not being offered for the truth.

11 THE COURT: Well, let me have Mr. Markham finish.

12 Okay. So I understand that.

13 What about the relevance? Hasn't this come out before
14 the jury for the purpose of Mr. Lopez's argument about what due
15 diligence Mr. Lynch did about presumably the risks of investing
16 in My Big Coin?

17 MR. MARKHAM: So my understanding is that the
18 defendant wants to put in the Harmonie website so the defendant
19 can say or the defense can say that that's exactly what the
01:09 20 defendant relied on.

21 To be clear, this has no relevance as to what the
22 defendant relied on unless the defendant gets on the stand and
23 says he looked at it or unless someone else says that they saw
24 the defendant look at it. That's the reason why this is being
25 entered. It's hearsay statements and it's for the effect on

1 the defendant, not for the effect on the listener that's on the
2 stand.

3 It's also not clear to me that Mr. Lynch will look at
4 these website pages or has looked at these specific website
5 pages and say he recognizes them as authentic anything.

6 THE COURT: Mr. Lopez, what's the purpose they're
7 being offered, M1 through 3?

8 MR. LOPEZ: Your Honor --

9 THE COURT: Assuming authentication or that he saw
01:10 10 them.

11 MR. LOPEZ: One of the defenses in this case will be
12 that Mr. Crater was defrauded by Billy Donahue, William
13 Donahue, who led him to believe that the asset was backed by
14 gold when, in fact, it wasn't. And he went so far as to allow
15 a link from My Big Coin to Harmonie to create the appearance
16 that My Big Coin was backed by gold to Mr. Crater.

17 So Mr. Crater's reliance upon it is just as
18 significant as Mr. Lynch's reliance upon it if he looked at
19 that and relied upon it.

01:10 20 Mr. Lynch didn't know it was a fraud, the same way
21 Mr. Crater didn't know it was a fraud, but it's not being
22 offered for the truth of it because it was a fraud. It's being
23 offered for its impact on the listener or the viewer.

24 MR. MARKHAM: I would just note, your Honor, that the
25 concern is that the defense just said they were doing exactly

1 what our concern is, which is that they're trying to say that
2 this was a fraud on Randall Crater, and there's no testimony
3 and zero evidence that Randall Crater ever looked at these
4 websites.

5 THE COURT: Right. So I agree with you at this point,
6 Mr. Markham, and I don't think -- let's just play out if I
7 allow Mr. Lynch to be asked about it, assuming he even
8 recognizes them, I don't see that alone, Mr. Lopez, to be a
9 basis to later argue about what effect they had on Mr. Crater
01:11 10 absent what Mr. Markham points out would be the necessary link.
11 Do you understand my point?

12 MR. LOPEZ: I do, but there are now other stipulated
13 exhibits or admitted exhibits that we'll either read into the
14 record -- they're already admitted, but we'll draw attention to
15 them by having a reader or my just standing up and making them
16 known to the jury.

17 THE COURT: But I guess absent testimony of reliance
18 by Mr. Crater, how would there ever be a factual basis for
19 making that argument? Putting aside whether or not Mr. Crater
01:12 20 chooses to take the stand.

21 MR. LOPEZ: Well, your Honor, it's evidence that he
22 was provided information that was false. So --

23 THE COURT: So the other documents you're talking
24 about --

25 MR. LOPEZ: It goes to his good faith.

1 THE COURT: So what are the other documents you're
2 talking about, the other exhibits?

3 MR. LOPEZ: So starting with Exhibit 12, I think 12A,
4 12AA, 12B, 12C, D. I mean, old gold concentrate invoice.

5 THE COURT: Okay.

6 MR. MARKHAM: So, your Honor, I think I might be able
7 to -- if I may cut to the chase a little bit about what I think
8 is happening I think it might be helpful, which is that there
9 are emails that are stipulated to and in the record between the
01:13 10 defendant and a man named Billy Donahue. There's also this
11 website from something called Harmonie International that makes
12 all these claims on its website that are unverified. And I
13 think what the defense is trying to do is make the logical
14 link, though not the proven link, that because the defendant
15 received an email from somebody named Billy Donahue at
16 Harmonie, he looked at these website pages and relied on them.

17 The government's position is that they cannot argue
18 that unless there's some evidence that that occurred.

19 THE COURT: I understand the government's argument.

01:14 20 I guess what I'm saying is I understand Mr. Lopez may
21 be building the foundation to make an argument where this is
22 only one building block as to the factual basis for making an
23 argument.

24 So I understand the arguments on either side. I'll
25 give further consideration to them.

1 I'm assuming the government doesn't dispute the legal
2 matter that good faith would be a defense here.

3 MR. MARKHAM: No, of course not, your Honor.

4 I would just note that -- it's not clear to me John
5 Lynch, if shown these on the stand tomorrow, has any idea --

6 THE COURT: I understand, but there are a whole bunch
7 of steps that need to be made, but I wanted to understand what
8 the nature of the objection was and what it was being offered
9 for, and this is helpful and I'll take a look at those
01:14 10 exhibits.

11 MR. MARKHAM: Thank you, your Honor.

12 THE COURT: Mr. Lopez, anything else on your side?

13 MR. LOPEZ: No, just to that point I just didn't want
14 you to be surprised tomorrow when I --

15 THE COURT: No, understood, understood. And again,
16 we'll starting tomorrow at 8:45, and since we're going longer
17 tomorrow, we'll stop at 1:00 and resume at 2:00.

18 Thank you.

19 MR. MARKHAM: Thank you, your Honor.

01:15 20 THE CLERK: All rise.

21 (Court adjourned at 1:15 p.m.)

22 - - - - -

23 CERTIFICATION

24 I certify that the foregoing is a correct transcript
25 of the record of proceedings in the above-entitled matter to

1 the best of my skill and ability.

2
3
4
5 /s/Debra M. Joyce
6 Debra M. Joyce, RMR, CRR, FCRR
7 Official Court Reporter

July 13, 2022
Date

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JOHN LYNCH

Direct Examination

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By Mr. Moore

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